

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

UNITED STATES OF AMERICA     )     No. EP-12-CR-2106-DB  
                                      )  
vs.                                 )     El Paso, Texas  
                                      )  
MARCO ANTONIO DELGADO         )     October 25, 2013

VOLUME 5 OF 6 VOLUMES  
JURY TRIAL  
BEFORE THE HONORABLE DAVID BRIONES  
UNITED STATES DISTRICT JUDGE, and a jury.

A p p e a r a n c e s:

FOR THE GOVERNMENT:     MS. DEBRA P. KANOF &  
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Proceedings recorded by mechanical stenography,  
transcript produced by computer.

1 THE COURT: Good morning, ladies and gentlemen.

2 Members of the jury, again I need to remind you,  
3 you're being required to abide by all the instructions. We've  
4 been here all week, and any mistake by a juror could set us  
5 back and we would have to start all over again. So please,  
6 please, for the sake of all of us, abide by all the  
7 instructions that I gave you.

8 Are you ready to proceed, Ms. Kanof?

9 MS. KANOF: I am, Your Honor. And I have a couple of  
10 rebuttal exhibits. Could I hand them to the witness so he can  
11 read -- so he can look at them while I'm talking to him?

12 THE COURT: You may.

13 MR. VELARDE: May I see them?

14 MS. KANOF: I have copies. Let me give them to you.

15 THE COURT: You may.

16 (Ms. Kanof hands document to Defendant.)

17 MARCO ANTONIO DELGADO, DEFENDANT'S WITNESS, SWORN

18 CROSS-EXAMINATION

19 BY MS. KANOF:

20 Q. Good morning, Mr. Delgado.

21 A. Good morning.

22 Q. On -- on December 3rd of 2012, when talking to Josh Fry,  
23 you told him that after the seizure of the million dollars de  
24 la Concha introduced you to her cousin-in-law, Jose Quezada,  
25 correct?

1 A. Did you say December -- what was the date?

2 Q. You told Josh -- forget the date.

3 When you talked to Josh Fry, Agent Josh Fry, you told  
4 him that after the seizure de la Concha introduced you to her  
5 cousin-in-law, Jose Quezada.

6 A. No, ma'am. I don't know any Jose Quezada.

7 Q. Okay. And then you told him Quezada was a very powerful  
8 man, and that if anyone was involved with drug trafficking, he  
9 would suspect him -- you would suspect him.

10 And you're denying that as well, correct?

11 A. Correct.

12 Q. Okay. Lilian de la Concha was married to President Vicente  
13 Fox, correct?

14 A. She was.

15 Q. And in fact, when you met her, she was?

16 A. Correct.

17 Q. And you're saying she never introduced you to Vicente Fox's  
18 cousin, Jose Quezada?

19 A. I don't know anybody by the name of Jose Quezada.

20 Q. You have before you what's been marked as Government's  
21 Exhibit Number 98?

22 A. Yes.

23 MS. KANOF: Your Honor, we'd like the Court to take  
24 judicial notice of the Encyclopedia Britannica.

25 THE COURT: I will. But what -- are you trying to

1 admit it?

2 MS. KANOF: Yes, Your Honor. We would like to admit  
3 Government's Exhibit Number 98.

4 THE COURT: Counsel?

5 MR. VELARDE: No objection, Your Honor.

6 THE COURT: Government's Exhibit 98 will be admitted.

7 BY MS. KANOF:

8 Q. And this is a biography of Vicente Fox, correct?

9 A. I don't -- do you want me to read it? Because I don't know  
10 what it is. I just received it right now.

11 Q. Okay. Well, it says Vicente Fox. In full, Vicente Fox  
12 Quezada, correct?

13 A. Are you asking me to read it, ma'am?

14 Q. No.

15 A. Okay. Then...

16 Q. I'm asking you to agree or disagree that it says Vicente  
17 Fox, in full, Vicente Fox Quezada.

18 A. Yes.

19 Q. Okay. So it's true that Jose Quezada -- Quezada is de la  
20 Concha's -- now ex, but at the time -- cousin-in-law, correct?

21 MR. VELARDE: Your Honor, I have to object, because  
22 this question assumes facts not in evidence. There's nothing  
23 to establish that there's a relationship between either  
24 Quezada. Quezada is a very common name.

25 THE COURT: Overruled.

1 BY MS. KANOF:

2 Q. Well, the report says you said that de la Concha introduced  
3 you to the cousin-in law, Jose Quezada, correct?

4 That's what the report says. I'm not asking if you  
5 agree.

6 A. Yes, correct.

7 Q. Okay. All right. So you are saying that Josh Fry, in  
8 December of 2012, lied when he said that you admitted to being  
9 introduced to this man you thought might be a drug trafficker?

10 A. I never saw Fry in December of 2012.

11 Q. I'm sorry?

12 A. I never saw Josh Fry in December of 2012.

13 Q. I'm sorry.

14 A. So yes, if you represented that, it's another one of those  
15 concoctions.

16 Q. I'm so sorry, sir. It was November. I misspoke.  
17 November 2nd of 2012.

18 A. Okay.

19 Q. So now that we have the date correct, are you now admitting  
20 that you told him this?

21 A. I've never discussed nor met an individual by the name of  
22 Jose Quezada.

23 Q. Let's talk about September 4th, and I'm going to try to  
24 straighten some things out here.

25 The one -- it's your testimony that the one --

1 A. September? Could you give me a specific date, ma'am?

2 MS. KANOF: Your Honor --

3 THE COURT: September 4th of what?

4 MS. KANOF: 2007.

5 THE WITNESS: Thank you.

6 THE COURT: That's good enough.

7 BY MS. KANOF:

8 Q. On September 4th of 2007, Victor picked up a million  
9 dollars in cash in 5s, 10s and 20s from Atlanta.

10 Will you dispute that?

11 A. I don't know denominations, so I wasn't privy to that.

12 I now know that he picked up money and it was in  
13 different denominations.

14 Q. Okay. And you tell him and others that -- when you find  
15 out he picked up money -- that you thought it was a cashier's  
16 check, correct?

17 A. He mentioned funds. So funds could be in different forms,  
18 at least to my understanding.

19 Q. And that you didn't know he was in Atlanta?

20 A. I didn't know that he left to Atlanta. Eventually I found  
21 out he was in Atlanta.

22 Q. Okay. I'm talking about September 4th.

23 What was the origin of the one million dollars?

24 A. When he went to Atlanta, out there, I wasn't -- I didn't  
25 even know. I wasn't privy that he was going out there to pick

1 up any type of funds.

2 Q. I'm sorry, sir. What was the source of the one million  
3 dollar funds?

4 A. I don't know. I didn't know he was picking up funds.

5 Q. Okay. But didn't you testify that the funds were related  
6 to the bond issue?

7 A. No. What I testified is that my involvement with this  
8 group had to do exclusively with the bond.

9 Q. Okay. So now you're telling the jury -- okay. Let me try  
10 again.

11 Do you know what the million dollars was from?

12 A. The funds, once it was -- I was made aware of that they  
13 were coming from Atlanta, were the ones that had been discussed  
14 with me with regards to an inheritance. So I assumed those  
15 were the funds that we're talking about.

16 Q. Okay. So the funds were related to an inheritance?

17 A. The funds that they had identified, or discussed with me in  
18 the past when I asked, they told me, they're coming from an  
19 inheritance.

20 Q. Okay. And who is "they"?

21 A. When it was brought up to me, it was Vargas in one  
22 conversation and then --

23 Q. So when did Vargas tell you --

24 THE COURT: Let him finish, Ms. Kanof.

25 MS. KANOF: Okay.

1 A. And then his CPA, Pedro. I don't recall if he called me or  
2 if it was when I saw him down in Mexico City. He mentioned  
3 that, and that's when I was telling him, You need to be able to  
4 show paperwork for the -- you know, for the probate of the  
5 estate or where the inheritance came.

6 BY MS. KANOF:

7 Q. Please, Mr. Delgado, if you don't understand my question  
8 ask me and I'll ask it again.

9 A. Okay. Thank you.

10 Q. But I'll ask you to answer the question that is asked.  
11 Your attorney has a -- if you think that you didn't get to  
12 talk, your attorney gets to come back up and let you clarify.

13 Can we agree to that?

14 A. We can.

15 Q. Okay. Now, when Victor showed up with the million dollars,  
16 what was your understanding at that minute of the source of the  
17 funds?

18 A. In my mind, it was the funds that they were discussing as  
19 part of the inheritance.

20 Q. Okay. And you just speculated that?

21 A. No. When the funds were discussed with me --

22 Q. By whom?

23 A. The first conversation that I had, I already put it on the  
24 record, was with Vargas. And he said, We want to make sure  
25 that some funds that need to come into Mexico is done in such a



1 way that we don't violate any law.

2 Q. Okay. And --

3 A. How is it done from the U.S. side, because we already have  
4 the information from the Mexican side.

5 Q. Okay. And this was an inheritance of some person from the  
6 electric power company, right?

7 A. I don't know.

8 Q. I thought you -- before, you testified that Mr. -- -- that  
9 somebody that preceded Mr. Vargas at the union had died and  
10 these were the inheritance funds of that guy.

11 A. No.

12 Q. You didn't testify to that?

13 A. No, I did not.

14 Q. Well, whose inheritance was it?

15 A. I don't know, ma'am. I wasn't involved in structuring the  
16 transaction. When I was asked, I told him, You need to  
17 identify the source. They discussed it in terms of an  
18 inheritance.

19 He said, Okay.

20 Q. Wait, wait, wait. You told them, You need to identify the  
21 source?

22 A. Yes, for the paperwork, for the declarations.

23 Q. Wait. Now, you're saying you told them, You need to  
24 identify the source?

25 A. Yes. You need to be able to establish the source of origin

1 of the funds.

2 Q. I thought, before, you said what they needed to establish  
3 was the source of origin of the treasury bond.

4 A. They also needed to do that. You see what happens is when  
5 you have different instruments, whether --

6 MS. KANOF: Your Honor --

7 THE COURT: You answered the question.

8 BY MS. KANOF:

9 Q. Again, your attorney will let you explain.

10 So you didn't know Victor was in Atlanta, correct?

11 A. Not initially, no.

12 Q. Okay. And you testified that you did not find out that  
13 Victor was in Atlanta until when?

14 A. That, I don't recall, ma'am.

15 Q. Okay. This is September 4th, correct, of 2007?

16 A. Correct.

17 Q. Okay. And when you talked to the Department of Public  
18 Safety officer who stopped your car, you told them it was  
19 Victor's money.

20 A. I don't recall.

21 Q. Well, that's what the -- Officer Carrasco testified to.

22 Was he telling the truth?

23 A. I don't recall, ma'am.

24 Q. Okay. And you told DPS that Carrasco -- that you were  
25 helping Mr. Carrasco to go to the Chase Bank, because you knew

1 an administrator at the Chase Bank?

2 MR. VELARDE: I'm sorry --

3 THE WITNESS: Ma'am, I don't know a Mr. Carrasco.

4 MR. VELARDE: Your Honor, a point of clarification.  
5 There's no testimony about who told Mr. Carrasco.

6 MS. KANOF: I'm sorry. Deputy -- Department of Public  
7 Safety. He -- Carrasco testified to this, Your Honor.

8 THE COURT: Overruled.

9 BY MS. KANOF:

10 Q. Okay. That you told Trooper Carrasco you were helping  
11 Victor, and you were going to Chase Bank because you knew an  
12 administrator there, correct?

13 A. No.

14 Q. So --

15 A. That's not correct. I said my assistant was there.

16 Q. Okay. You answered the question, sir.

17 THE COURT: Wait. You've answered.

18 BY MS. KANOF:

19 Q. So when Trooper Carrasco testified that you were going to  
20 Chase Bank because you knew an administrator, he was not  
21 telling the truth, that you told him that?

22 A. He probably misunderstood. The administrator was my  
23 assistant that was waiting at the bank for me. And I did  
24 mention that.

25 Q. What's that administrator's name that was waiting at the

1 bank?

2 A. Miriam Guerrero.

3 Q. Okay. So you are saying that it wasn't the bank  
4 administrator that you knew. You were saying it was your  
5 administrator that was at the bank?

6 A. What I'm saying is that when Victor shows up with those  
7 funds and tells me --

8 Q. Were you saying it was your Miriam administrator, or did  
9 you tell Carrasco it was the bank administrator and you knew  
10 him, so you were helping Victor with --

11 A. No. I never said that to the officer.

12 Q. And Miriam was your virtual secretary, correct?

13 A. I don't know what "virtual secretary" is.

14 Q. Well, I think they referred to virtual when something is in  
15 the internet space or something like that. That's what I mean.  
16 Your office --

17 A. No. No, no. She was my administrative assistant.

18 Q. Oh, okay.

19 A. A human being.

20 Q. You didn't say administrative assistant. You said  
21 administrator.

22 A. I don't recall. I mean, you've got that taped. So if you  
23 want to, we can review it.

24 Q. And when -- you told them you were going to help them at  
25 Chase, right?

1 A. That we were going to open an account for Pimentel, yes.

2 Q. So on Friday afternoon you were going to take a million  
3 dollars to Chase Bank, where Miriam was waiting for you, and  
4 she -- why did you need her to help you open a bank account?

5 A. Well, first of all, she's the one that did all my banking.  
6 She was the one that had, you know, the relationship with the  
7 administrators from the bank.

8 And I was going to be leaving town, so I wanted to  
9 make sure that Victor was taken care of.

10 Q. Okay. She had a relationship with who?

11 A. Well, with the bank. She's the one that took care of my  
12 banking.

13 Q. Okay. But you didn't bank at Chase.

14 A. I did.

15 Q. Really?

16 A. Really.

17 Q. Okay. Can we see those records?

18 A. Yeah. Subpoena them or ask them or what have you. Yeah.

19 Q. You actually told DPS Officer Carrasco that you did not  
20 have an account at Chase Bank.

21 A. No, that's incorrect. That's incorrect. I banked there  
22 for many years, and at that branch in particular, the one we  
23 were headed to.

24 Q. Well, you're aware that the Government subpoenaed your bank  
25 records, correct?

1 A. I'm sure you did.

2 Q. All of them were at Wells Fargo.

3 A. Currently, yes. We're talking about six years ago, ma'am.

4 Q. We subpoenaed your records from six years ago.

5 A. Well, then, doublecheck.

6 THE COURT: Wait a minute. Let's get some order here.

7 Do you have a question?

8 BY MS. KANOF:

9 Q. Sir --

10 A. Ma'am.

11 Q. -- you've -- in fact, you stipulated to the bank records.

12 You agreed those were your bank records, correct?

13 A. I don't know which bank records you're referring to. I  
14 banked at Chase for many years and did my personal and business  
15 banking from there, from that specific branch.

16 MS. KANOF: May I publish, Your Honor, Government's  
17 Exhibit Number 85?

18 THE COURT: It's been admitted. You may publish.

19 MS. KANOF: Thank you, Your Honor.

20 BY MS. KANOF:

21 Q. This is a stipulation of authenticity of records. And at  
22 the bottom is your signature, correct?

23 A. Yes, ma'am.

24 Q. Okay. And -- okay. And the records, you have stipulated  
25 that the Wells Fargo Bank account records of Liliana Narvaez

1 and the Wells Fargo records of your IOLTA account are true  
2 business records, correct?

3 A. Yes.

4 Q. Okay. And you said you just -- you just started banking at  
5 Wells Fargo; is that right?

6 A. No.

7 Q. Okay.

8 A. What I told you is that I banked for many years at Chase.  
9 My IOLTA account and another account was being held at Wells  
10 Fargo and continues to be.

11 Q. Okay. You testified that you found out that Victor was in  
12 Atlanta when the bond mediation was taking place in Mexico,  
13 correct?

14 A. Actually, it had to be postponed because he wasn't there.  
15 We couldn't find him.

16 Q. Sir, you did not tell Mr. Velarde that, did you?

17 A. That's what it was, yeah. Because he wasn't there,  
18 correct.

19 Q. The first time --

20 A. You're correct.

21 Q. The first time you testified why you did not know Victor  
22 was in Atlanta is you said the bond mediation was taking place  
23 in Mexico.

24 A. Correct.

25 Q. The second time you said you were at the mediation in

1 Mexico.

2 A. Correct.

3 Q. Okay. You didn't tell Mr. Velarde, Ooh, and then we had to  
4 cancel it because Victor wasn't there, did you?

5 A. I suppose not.

6 Q. I'm sorry?

7 A. If you're --

8 Q. You're agreeing with me that you didn't testify to that?

9 A. If you want you could have the record be read to me,  
10 because I don't have the specific recollection of what I said  
11 yesterday. I was here for two hours, so I could have said --

12 THE COURT: Answer the question. If you don't know,  
13 say you don't know.

14 THE WITNESS: I don't know.

15 BY MS. KANOF:

16 Q. You also testified, I was responsible for the settlement of  
17 the bond, correct?

18 A. Yeah, placing the bond.

19 Q. Okay. No. I'm quoting you. Do you not recall that you  
20 said, I was responsible for the settlement of the bond?

21 A. I would like to see that, because I don't know. I would  
22 like to see that quote, actually, the context of it.

23 Because --

24 Q. If you don't recall, please just say you don't recall.

25 A. I don't recall.



1 Q. Okay. And so you're in Mexico on the 4th of September,  
2 correct?

3 A. No. Actually, the mediation went through for several days.  
4 There were several meetings independent. I don't know if, on  
5 the 4th, I was there on the ground present.

6 Q. You said --

7 A. I don't --

8 Q. -- you found out Victor was in Atlanta when the bond  
9 mediation was taking place in Mexico and you were in Mexico,  
10 correct?

11 A. Yes.

12 Q. And Victor was only in Atlanta September 3rd and  
13 September 4th?

14 A. I don't know.

15 Q. Okay. Well, if he was, then we can place you in Mexico on  
16 September 3rd and September 4th, correct?

17 A. I mean if you assume that that's when he went, yes.

18 Q. You e-mailed him Government's Exhibit Number 31 at  
19 1:37 p.m. on September 4th of 2007, the settlement agreement.

20 Will you agree with me?

21 A. Yes.

22 Q. Government's Exhibit Number 31.

23 A. Uh-huh. Yes.

24 Q. Okay. First of all, you previously testified that you got  
25 that settlement agreement -- and I want to be correct.

1           You got that settlement agreement from the people in  
2           your office who had a library. That was your testimony?

3           A. No.

4           Q. Okay. That was not your testimony?

5           A. My firm has a library of forms, so it was accessed from  
6           there.

7           Q. I'm sorry. Your firm, which is just --

8           A. My law firm --

9           Q. Yeah.

10          A. -- as part of its assets has an archive of forms, a  
11          library. And if somebody's assisting me, that's where they  
12          would have accessed it, from our server.

13          Q. So you're telling the jury you didn't say, on the first  
14          time that Mr. Velarde asked you specifically, Someone in my  
15          office did that. We have a library of forms.

16          A. I don't know if I -- I don't know.

17          Q. And of course you can't identify who it was in your office  
18          that did that, right?

19          A. Correct.

20          Q. That office on Remcon is what's known as a virtual office,  
21          isn't it?

22          A. All of our offices are virtual, yes, sir.

23          Q. So it's not really an office, right?

24          A. No, it is an office.

25          Q. Did you sleep there at the office?

1 A. Sometimes when we had closings, yes.

2 Q. Was it your legal residence?

3 A. Yeah.

4 Q. The office was your legal residence?

5 A. Yeah. For my modifications and everything, yes.

6 Q. You took a homestead deduction in your office?

7 A. No. Did I ever claim a homestead deduction?

8 Q. Okay.

9 A. No.

10 Q. You're now telling this jury you lived at your office,  
11 which was a virtual office?

12 A. How are you defining "residence"?

13 Q. The way the IRS does.

14 A. Could you share that definition with me?

15 Q. If you would look at Government's Exhibit Number 82, your  
16 1040 individual tax return from 2008.

17 A. Uh-huh.

18 Q. The question is: Home address number and street.

19 And you say 7362 Remcon.

20 A. Correct.

21 Q. That is not true, is it?

22 A. That's my office. That's the address where I will get all  
23 my mail and where I would be located. So you're right, that's  
24 correct. I did not live there.

25 Q. So you lied to the IRS?

1 A. I guess. Yes, I guess the information is not --

2 Q. Because from 2008 you were living with your mother?

3 A. Probably, yes. Uh-huh.

4 Q. And that's because you were destitute and you had to live  
5 with your mother?

6 A. No. It's a cultural thing. I'm sure you wouldn't  
7 understand.

8 THE COURT: Wait a minute.

9 THE WITNESS: Living with my mother is not an  
10 indication of anything but respect.

11 BY MS. KANOF:

12 Q. Okay. Living with your mother is an indicator -- but  
13 you -- but you didn't live with your mother after you got  
14 divorced, did you?

15 A. Yes.

16 Q. Well, you lived with Victor after you got divorced.

17 A. I got the -- no. You're incorrect. Your dates are  
18 mistaken.

19 Q. And you lived with Victor in a house, correct?

20 A. I did not live with Victor after my divorce. That was the  
21 excuse I actually used to get rid of him.

22 Q. Victor lived with you, right?

23 A. Not after my divorce, no.

24 Q. I didn't ask you.

25 Victor lived with you, correct?

1 A. Correct.

2 Q. He lived with you for several years, correct?

3 A. Yes.

4 Q. He didn't -- your wife didn't live there when Victor was  
5 there, right?

6 A. No, she didn't.

7 Q. Okay. Because you were already divorced?

8 A. No.

9 Q. Okay.

10 A. I was separated. The divorce took years.

11 Q. Okay. I'm sorry.

12 A. You should be.

13 Q. After you and your wife separated, your wife -- her name  
14 was Sharon, right?

15 A. Excuse me?

16 Q. Your wife's name was Sharon, correct?

17 A. I think it still is.

18 Q. And you lived with Victor after you and Sharon were  
19 separated?

20 A. Yes.

21 Q. Actually, Victor lived with you, correct?

22 A. Yes.

23 Q. At your home?

24 A. Yes.

25 Q. Your mother didn't live with you then, right?

1 A. No.

2 Q. Okay. Well, you know, with regard to that, Government's  
3 Exhibit Number 82, for the year of 2008, you declared \$52,000  
4 income?

5 A. That was -- that was actually presented by an accountant.  
6 And it was reviewed, and it had been amended, or in the  
7 process, or should be amended.

8 Q. Or is in the process?

9 A. It was an oversight.

10 Q. Okay. Was it amended or not?

11 A. It should be being amended.

12 Q. Okay. You're -- it should be being amended since you got  
13 this in discovery, right?

14 A. Excuse me?

15 Q. It should be being amended because -- this is 2008. How  
16 long ago was that?

17 A. I don't know.

18 Q. Okay.

19 A. Maybe five years.

20 Q. '8, '9, '10, about five years ago?

21 A. Uh-huh.

22 Q. And you haven't corrected it yet?

23 A. I don't know if it's reached the IRS offices yet or not,  
24 but it should be.

25 Q. Arely González is the one who did this return from Liberty

1 Tax Service, correct?

2 A. I don't know.

3 Q. Well, it says, Paid preparer's use only. And it says Arely  
4 González, Liberty Tax Service, correct?

5 A. That's what it says.

6 Q. Okay. And of course for a tax service to file a tax return  
7 you have to give them your information, right?

8 A. Yes. Uh-huh.

9 Q. Okay. Is that a yes?

10 A. Yes.

11 Q. Okay. And so they would have gotten the fact that you  
12 lived at your office from you, correct?

13 A. I don't know if I was the one giving them the information.  
14 I think that's why the income was also misstated, because it  
15 went probably through my assistant or something like that.

16 Q. Let's see. Who's correcting -- who should be in the  
17 process of filing a correct return right now?

18 A. Actually, my attorneys -- my -- I'm sorry. Let me restate  
19 that.

20 Actually, I've hired two different CPAs.

21 Q. Who?

22 A. And two different times -- periods of times to take care of  
23 this.

24 One of them I believe is Med- -- Linda Medlock. She's  
25 no longer doing that, but she was in charge of doing it.

1           And then subsequent to that, Mr. Chris Parker. And he  
2 was in charge of regularizing and cleaning up all the mess from  
3 the previous accountant.

4 Q. Okay. So you've -- you hired two different accountants --

5 A. Yes.

6 Q. -- to fix this, right?

7 A. Uh-huh.

8 Q. Is that a yes or no?

9 A. Yes.

10 Q. I'm sorry. The court reporter needs you to state some  
11 words, not uh-huh or -- okay?

12 A. Yes.

13 Q. And neither of them have fixed it, right?

14 A. Apparently so.

15 Q. Okay. Now by the way, how -- how is this being amended?  
16 What are you changing?

17 A. The income that's going to be disclosed, the amount of  
18 income.

19 Q. Okay.

20 A. It was understated, apparently, is the oversight.

21 Q. Oh. They accidentally understated -- well, if income is  
22 understated, you pay less taxes, right?

23 A. It depends on what type of liabilities you have, what  
24 expenses that year and other things, if you're carrying over  
25 losses. So, no. I mean, it varies.



1 Q. If income is understated you pay less taxes, don't you?

2 A. It depends on the burden that you have. If you don't have  
3 an obligation then it wouldn't affect it.

4 Q. How understated was this, now?

5 A. I believe that it was in the magnitude of a couple of  
6 hundred thousand dollars.

7 Q. Oh. So instead of 52,000, it should have been 252,000?

8 A. I don't really know the amount, but I know it's in those  
9 magnitudes.

10 Q. Okay. And I think your signature is on this. Hold on.

11 Did -- it was Arely. Did Ms. González --

12 A. I don't know an Arely.

13 Q. Did she -- this was not electronically filed. So did  
14 Ms. González not go over it with you before it was filed?

15 A. This is not a form that I participated in the preparation.

16 Like I said, it was done through somebody that I  
17 relied on in terms of getting the information to them. But if  
18 you show me the signature page, perhaps I can decipher it.

19 You did say there's a signature, right?

20 Q. Well, I didn't know whether there was or not. See --

21 A. Because if you show it to me, then we could tell.

22 Q. At least on this copy, even she did not sign it. But it is  
23 a certified copy from the IRS. So they must have sent --

24 A. So they received an unsigned return?

25 Q. Now -- I'm sorry, sir, I'm asking the questions.

1 Now, you told this jury that you didn't know he was in  
2 Atlanta until you were at the mediation in Mexico, correct?

3 A. Correct.

4 Q. And you were at the mediation in Mexico, then -- okay.

5 And we know that you're back in El Paso on the 6th,  
6 because Victor picks you up in front of your mother's house,  
7 right?

8 A. No. Victor didn't pick me up at my mother's house on the  
9 6th. It's incorrect, ma'am, the information.

10 Q. I'm sorry. The 7th.

11 We know you were in El Paso by September 7th.

12 A. The 6th or the 7th.

13 Q. Okay. The 7th, sorry.

14 A. The 7th? Yes. The 7th I was in El Paso.

15 Q. Okay. And you said that you were sending the document, the  
16 settlement agreement, because Victor was going to do the  
17 mediation.

18 A. He was going to partake in the mediation.

19 Q. Okay. So he was going to partake in the mediation?

20 A. Yes.

21 Q. So it's already -- you send this to Victor on the 4th at  
22 1:37.

23 A. Yes.

24 Q. And as we went through today, there is nothing about this  
25 settlement agreement that has anything to do with this bond

1 business, correct?

2 A. It's a form, like the e-mail says.

3 Q. My question --

4 A. It identifies the --

5 THE COURT: Just answer the question.

6 THE WITNESS: It does. Yes, it does.

7 BY MS. KANOF:

8 Q. Okay. It's before you, because you show a page that it  
9 references a bond settlement?

10 A. No. It's just a transaction. It describes how to finish,  
11 how to settle a dispute.

12 Q. Okay. And before -- and this has a lawsuit number and  
13 everything. And before, you said --

14 A. It does.

15 Q. Okay. And so on the 4th you're in Mexico for the  
16 mediation, correct?

17 A. No, I don't know if I'm there. The mediation actually  
18 started the week -- the prior week.

19 Q. Wait. The mediation started the prior week?

20 A. Yes.

21 Q. I thought you just testified that it had to be postponed  
22 because Victor wasn't there.

23 A. No. The component -- when I said he partakes in it, his  
24 part was going to take place the following week when he was no  
25 longer there.

1 Q. You testified that you had to postpone the meeting --

2 A. Well, I'm correcting that statement.

3 Q. Okay. And so if you -- well, let's -- let's say that it  
4 did start the week before.

5 Why did you take the settlement agreement with you to  
6 Mexico?

7 A. That wasn't the part I was responsible for.

8 Q. Okay. What part were you responsible for, now, in the  
9 mediation?

10 A. My big contribution had to do with ascertaining the value  
11 of the instrument and identifying the best way to settle it  
12 from a financial perspective, in terms of cashing it, selling  
13 it, mortgaging it.

14 Q. Well, if that's your only aspect and Victor is a lawyer,  
15 why are you sending him the settlement agreement he needs to  
16 use?

17 A. He asked for guidance, probably.

18 Q. Probably?

19 A. Yeah, probably. I don't know. Uh-huh.

20 Q. I draw your attention to Government's Exhibit Number 34.

21 Now at the top, this is Laura I. Montes versus The  
22 City of El Paso, correct?

23 A. Correct.

24 Q. And it was filed on January 13th of 2006, correct?

25 A. Yes.

1 Q. And it was filed in the 205th Judicial District Court,  
2 El Paso County, Texas, correct?

3 A. Correct.

4 Q. And the Cause Number is 2006 -- meaning the year, correct?

5 A. Correct.

6 Q. Dash 217, correct?

7 A. Correct.

8 Q. Government's Exhibit Number 31, the settlement -- the thing  
9 that was in your files that they used, that you sanitized, has  
10 the exact same Cause Number on it, doesn't it?

11 A. Yes.

12 Q. And says the 41st Judicial Court, doesn't it?

13 A. That's what it says.

14 Q. Okay. And so this cause number has nothing to do with even  
15 this sanitized document, does it?

16 A. I don't follow -- I don't understand your question.

17 Q. 2006-217 belongs to Ms. Montes versus The City of El Paso,  
18 correct?

19 A. Correct.

20 Q. And you testified that this was just in your virtual form  
21 library to use for the purpose of the bond settlement, correct?

22 A. As a template for any release and settlement that could get  
23 some language from it.

24 Q. Okay. How is it that in your files you have a template  
25 that has a cause number that belongs to a lawsuit that has

1 nothing to do with your practice?

2 A. For the following reason. At times you're not going to  
3 find specific language for a specific type of transaction. So  
4 what you do is you get the closest thing to it.

5 So if something catches your eye in the form of, Look,  
6 this identifies the issue in a succinct fashion, you do that  
7 and you probably use it for several transactions, not just one.

8 Q. Okay. That didn't answer my question.

9 Let me -- if you don't understand my question --

10 A. The document was probably useful, and that's why.

11 Q. No. How did a template in your library get a cause number  
12 from Montes versus City of El Paso on Juan Miguel Hernandez  
13 versus Texas Oil Company?

14 A. That, I don't know, now.

15 Q. Now, you testified that you were sending Victor to mediate.

16 A. No, I wasn't sending -- Victor was part of the mediation.

17 Q. Okay. So now you're denying that you --

18 A. I wasn't sending Victor, no, to mediation. He was part of  
19 it.

20 Q. And you're sending him this form, when the mediation's  
21 already been gone -- going on for a week, right?

22 A. Not -- not a week, but for some days, yes.

23 Q. Isn't it kind of cutting it close to be sending -- they've  
24 already been in mediation for a week, and you said the rest of  
25 it was postponed because Victor didn't show up.

1           So he must have -- you must have expected him to show  
2 up on the 3rd or 4th of September, correct?

3 A. He probably just announced he wasn't going to be there. I  
4 don't recall the specifics of --

5 Q. Okay. That wasn't my question.

6           You said that the mediation was postponed because  
7 Victor wasn't there to do his part, correct?

8 A. Correct.

9 Q. And that you already expected him to be there at that time.

10 A. Yes, it was expected. He was responsible for that.

11 Q. And Victor was in Atlanta the evening of the 3rd of  
12 September, correct?

13 A. I don't know that.

14 Q. Well, let's assume that all of the agents are not lying and  
15 that Victor was in Atlanta on the 3rd of September.

16 A. Let's assume that.

17 Q. Okay. And so Victor got the settlement mediation template,  
18 with the cause number from a different lawsuit against the  
19 city, the date after he was supposed to be in Mexico for the  
20 mediation, right?

21 A. I didn't follow your sequence, ma'am. I'm sorry.

22 Q. You said that the mediation was postponed because Victor  
23 wasn't there.

24 A. Correct.

25 Q. And you had expected Victor to already be there, correct?

1 You just said that a minute ago, correct?

2 A. I -- he was supposed to be at the mediation. Yes, correct.

3 Q. Okay. And that you found out, when you were in Mexico, he  
4 was in Atlanta, correct?

5 A. Yes.

6 Q. So wouldn't that mean that you found out he was in Atlanta  
7 on September 3rd or 4th of 2007?

8 A. Yeah, probably -- I don't know if it was the 4th or what  
9 date, but yeah.

10 Q. Well, previously you testified that when -- that you didn't  
11 even know Victor was in Atlanta on the 6th of September.

12 But --

13 A. I don't recall those dates.

14 Q. -- obviously you did know, correct?

15 A. I don't -- yeah, but I...

16 Q. Okay. And again, if this is -- you said -- I'm trying to  
17 cut my question in pieces. So --

18 A. Thank you.

19 Q. -- Victor was supposed to be there by the 3rd, correct?  
20 Because that's -- that's when you found out that you had to  
21 postpone, right?

22 A. I don't remember if it was the 3rd when we found out, what  
23 day. But he was supposed to be partaking in a mediation that  
24 was going on the week of the 3rd.

25 Q. You never -- you never told us -- this jury on direct or on



1 my cross from yesterday that you waited for days for Victor to  
2 show up and then postpone the mediation.

3 A. Your questions are close-ended. You don't allow for  
4 expansion or clarification. It's just yes or no. Yes or no.

5 Q. You're an attorney, correct, Mr. Delgado?

6 A. I am, ma'am.

7 Q. And you know the difference between direct and  
8 cross-examination?

9 A. Not the -- the rules that govern it, no.

10 Q. Oh, okay. Well, you know that when someone sponsors a  
11 witness you can only direct them, correct?

12 A. I don't know the technicalities. If you want to explain  
13 them to me...

14 Q. Okay.

15 THE COURT: No, no. Don't start explaining, please.

16 MS. KANOF: Yeah.

17 BY MS. KANOF:

18 Q. This is cross-examination, in other words, sir.

19 A. Yes. I'm aware of that.

20 Q. So right now, based on your testimony, Victor was supposed  
21 to be in Mexico City on the 3rd of September, correct?

22 A. He was supposed to be in the mediation that week of the  
23 3rd, yes.

24 Q. Okay. And on the 4th you sent him a settlement agreement,  
25 correct?

1 A. Correct.

2 Q. Okay. And you sent him a settlement agreement which  
3 doesn't even come close to being ready.

4 A. I didn't send them a settlement agreement. I sent them a  
5 form so he could use language from it and identify issues.

6 Q. Okay. Where was his office?

7 A. Whose office?

8 Q. Victor's.

9 A. Probably at the SUTERM, at the labor union.

10 Q. Okay. So --

11 A. I suppose so.

12 Q. So now you're saying that Victor was a lawyer for the labor  
13 union and had an office there?

14 A. Could you --

15 Q. Yesterday, you --

16 A. Did I -- did I say that? No, I didn't say that, ma'am.

17 Q. Yesterday you testified that Victor went to law school with  
18 Vargas's daughter.

19 A. Yes.

20 Q. Okay. Vargas's daughter went to culinary school. She  
21 didn't go to law school.

22 A. Victor's girlfriend, the daughter of Nareo Vargas, went to  
23 law school, to the Anahuac University and actually clerked --

24 MS. KANOF: Your Honor --

25 A. -- in my law firm here in the United States in the late

1 '90s.

2 THE COURT: That's enough. That's enough.

3 BY MS. KANOF:

4 Q. So when Victor testified he had gone to culinary school, he  
5 wasn't telling the truth?

6 A. Excuse me?

7 Q. When Victor testified that he went to culinary school, he  
8 wasn't telling the truth?

9 A. How am I supposed to know if he went to culinary school or  
10 not?

11 Q. Well, you knew he went to law school, don't you?

12 A. Yes. Because that's something he would discuss, he would  
13 proffer, he would put forth.

14 I didn't know his background as a culinary student or  
15 what have you.

16 Q. So he went to law school, but then was living in a dorm at  
17 UTEP as an undergraduate student?

18 A. He wasn't living -- he was living at my house.

19 Q. Well, he testified that when he deposited the funds into  
20 your Wells Fargo account in July of 2008 he was living in the  
21 dorm.

22 A. Yes.

23 Q. Right? Right?

24 A. Yes. That's after he had lived with me.

25 Q. Right. After -- and he was not a graduate student, was he?

1 A. I don't know. I don't know. Just because he got a  
2 different degree here doesn't mean that he didn't have another  
3 one.

4 Q. You testified that you did not know that Victor had picked  
5 up money, correct?

6 A. That -- well, depends on what time. At what time?

7 Q. In Atlanta.

8 A. When?

9 Q. You testified that on August 6th of 2007, you did not know  
10 that Victor had picked up money in Atlanta, correct?

11 A. I didn't know he had picked up money in Atlanta, yeah. I  
12 don't know.

13 Q. Okay.

14 A. As a matter of fact until right now, I understand that he  
15 picked up the money.

16 Q. Okay. I'm going to draw your attention to Government's  
17 Exhibit Number 38.

18 A. Yes.

19 (Exhibit 38 playing.)

20 MS. KANOF: For some reason it's not playing. It's  
21 probably me.

22 Oh, it's playing, we're just not hearing it.

23 According to this, the little bar at the bottom is  
24 moving, but we're not hearing anything.

25 Is there something we can do about the audio?

1           Let me see if we can just do it with the transcript  
2           for right now, if I can scroll it down.

3           No, it's not scrolling. Is that one scrolling?

4           (Discussion off the record.)

5           BY MS. KANOF:

6           Q. I'll just use this transcript. Let's go back.

7           You said you did not know that Victor had picked up  
8           money, correct?

9           A. Could you stop scrolling, please?

10          Q. No, I'm just -- no, I'm going to the part I want to ask you  
11          about.

12          A. Okay.

13          Q. Okay. You testified that you did not know that Victor had  
14          picked up money on the 6th of September, correct?

15          A. No. You were asking the 6th of August in your document.  
16          If you scroll down, it says August 6th.

17          And no, I had no knowledge of him on August 6th.

18          Q. On September 6th of 2007. The front of Government's  
19          Exhibit Number 38A says September 6th of 2006, correct?

20          A. Yes.

21          Q. And you claim to have made a lot of these tapes. So you  
22          know that that's how it's done, right?

23          MR. VELARDE: Objection. He did not make this tape.

24          THE COURT: I'll sustain the objection.  
25

1 BY MS. KANOF:

2 Q. Okay. But it says the 6th, right? Oh, in fact --

3 A. It's right there. Go to the second page.

4 Q. It says September 6 -- yes, I know there's --

5 A. Go to the second page.

6 Q. On September 6th --

7 MS. KANOF: I'm going to have to play this, Judge,  
8 because he's going to dispute -- the agent made a mistake and  
9 put August instead of September, when he was doing the  
10 preamble. And the Government could prove in spades this  
11 happened on September 6th of 2007. But because he's disputing  
12 it, I would like to play it.

13 THE COURT: Call David.

14 Let's take a break. We'll get the technician in here.  
15 We'll be in recess for the next 10, 15 minutes.

16 (Recess taken; open court.)

17 MS. KANOF: May I proceed, Your Honor?

18 Your Honor, during the break the defense counsel  
19 informed me that they're willing to stipulate the phone call  
20 occurred on September 6th of 2007.

21 THE COURT: With the preparation, the document states  
22 August the 6th, right?

23 MS. KANOF: No. The document states September. But  
24 in the preamble that's typed up it says August.

25 THE COURT: Okay. So it should have said September?

1 MS. KANOF: It should -- it's a typo. They're  
2 agreeing it's a typo.

3 THE COURT: Okay.

4 BY MS. KANOF:

5 Q. So, Mr. Delgado, on -- you previously testified that you  
6 did not know that Victor had brought cash money from Atlanta,  
7 correct?

8 A. Not cash. I knew he had funds with him.

9 Q. Okay. You thought it was a cashier's check, right?

10 A. But I don't have a specific recollection; just funds.

11 Q. Well, you testified --

12 A. An instrument.

13 Q. -- you thought it was a cashier's check.

14 A. Well, it could have been a cashier's check. It could have  
15 been a CD. You know, just an instrument.

16 Q. Well, you were going to help him deposit it in the bank.  
17 What were you going to help him deposit?

18 A. No. Actually, he was heading out of the country when he  
19 was coming. He didn't tell me that he needed some help,  
20 actually, until he got there the following morning and says  
21 that his people are still not ready or what have you to do the  
22 Mexican part.

23 And that's when I said, Okay. Let's go to the bank  
24 and either get a cashier's check or an escrow account or  
25 whatever.

1 Q. And get a cashier's check. That would imply that you knew  
2 there was cash, right?

3 A. Cashier's check does not mean it's cash, ma'am. You can  
4 actually get a cashier's check with a regular bank with a  
5 credit card, with a wire transfer.

6 Q. But you said you know --

7 A. It's just a name.

8 Q. -- he brought something.

9 A. Funds. Yes, ma'am.

10 Q. Okay. He brought funds. Okay.

11 Is the credit card funds?

12 A. No. But the credit line backing it is.

13 Q. You testified you knew he brought funds, but you didn't  
14 know it was cash, correct?

15 A. I didn't know the form of it, correct.

16 Q. Okay. And just now you said that -- and you did testify  
17 that you thought it was a cashier's check, correct?

18 A. I didn't know the form of it. It could have been a  
19 cashier's check.

20 Q. But you're sure you did not know that it was a million  
21 dollars in cash, correct?

22 A. That, I am sure.

23 Q. Okay. How much space does a cashier's check take up?

24 A. I -- I don't -- I don't know.

25 Q. It's just a little piece of paper, right?



1 A. Yeah. Uh-huh.

2 Q. You put in your pocket, right?

3 A. Uh-huh.

4 Q. Is that a yes?

5 A. Yes.

6 Q. So in this conversation, which is very short, first Victor  
7 asks you to go to Target for him, correct?

8 A. Yes. That's what it says.

9 Q. And he had a two-month old baby, right?

10 A. Yes. Uh-huh.

11 Q. And he asked you to pick up one of those swings that they  
12 use so the little girl could bounce on the floor, correct?

13 A. Yes.

14 Q. And you said, Let me see. No, no. The ones that you wind  
15 and it moves, or the ones that you hang on the door?

16 You asked him to clarify, correct?

17 A. Yes.

18 Q. And he said, No, no. You hang it on the door. Exactly,  
19 correct?

20 A. Yes.

21 Q. And you said, Yes, I know which one it is.

22 Is that correct? Is that correct?

23 A. I mean, it doesn't appear at the -- could you scroll down?

24 (Call played.)

25 A. I see it now.

1 BY MS. KANOF:

2 Q. Okay. He says, It is a big box and we can store the money,  
3 no? Please?

4 And you respond, Okay, then. Sure.

5 Right?

6 A. Yeah. Uh-huh.

7 Q. Okay. Yes?

8 A. Yes.

9 Q. Okay. But you testified you didn't know that he was  
10 bringing money.

11 A. No, I didn't know an amount or anything. I thought this  
12 was just part of the banter.

13 Q. I'm sorry. You just thought this was banter?

14 A. Yes. Uh-huh.

15 Q. He says, It is a big box, and there we can store the money,  
16 no? Please?

17 And you say, Okay.

18 Right?

19 A. Well, no. I don't say okay. He doesn't say "the money."  
20 He uses a slang term.

21 Q. Uh-huh.

22 A. Kind of like in jest.

23 Oh, okay.

24 So I tell him, *Orale pues*, which means let's go with  
25 it. I said, *No, claro*, of course.

1 It was just banter.

2 Q. So you just now said, I didn't know how much money.

3 What is it, Mr. Delgado? Did you know he had cash or  
4 not?

5 A. I knew he had funds. I did not know the form. I did not  
6 know the amount.

7 Q. You told --

8 A. But I will tell this --

9 MS. KANOF: Your Honor --

10 THE COURT: You've answered the question.

11 BY MS. KANOF:

12 Q. You told DPS Trooper Carrasco, when you were stopped on the  
13 way to Chase Bank, you told him that you were going to the  
14 airport, right?

15 A. Yes.

16 Q. Right. You were going to fly to Mexico City, right?

17 A. Correct.

18 Q. And you claimed all of the clothing, luggage in the car was  
19 yours, right?

20 A. Yes.

21 Q. Okay. And your intent, then, was to fly on an airplane,  
22 right?

23 A. Yes.

24 Q. Did you know how Victor had gotten to Atlanta?

25 A. No.

1 Q. Did you know how Victor got back from Atlanta?

2 A. Yes. From this conversation, I knew he was on the road.

3 Q. No, I'm not asking from this conversation. I'm sorry, sir.

4 A. Yes. I did know he drove to El Paso.

5 Q. You did? How did you find that out?

6 A. I guess he told me. I mean, I remember him calling me and  
7 saying, I'm heading there, and it was part of the conversation.

8 When I found out he was out of town, that he was in  
9 Atlanta, we started talking, and said, Okay.

10 Q. Okay. But you told -- okay.

11 First of all, if you come down North Resler to Mesa  
12 and make a right, right before you get to the freeway there's a  
13 Chase Bank, right?

14 A. If you come down --

15 Q. You -- the DPS officer said you came down Resler and you  
16 made a right on Mesa.

17 You remember that testimony?

18 A. We didn't come down Resler.

19 Q. So --

20 A. It was Bartlett, I believe, or something, a parallel  
21 street.

22 Q. He specifically told you that he was waiting at a --

23 A. Oh, yes. We did make a right on Mesa.

24 Q. From Resler, correct?

25 A. One of those streets, ma'am, coming from the north side,

1     yeah.

2     Q.   And right after you make a right -- well, first of all, on  
3     the left at the corner of North Mesa and Resler is a Wells  
4     Fargo Bank, correct?

5     A.   Okay.  Then it's a fact that we did not come down Resler  
6     and make a right.

7     Q.   So Deputy Carrasco lied --

8     A.   Or he just --

9     Q.   -- that you were coming down Resler?

10    A.   Or he just got his streets wrong.  But no, we did not come  
11    down -- now that I know which one is Resler, I know we did not  
12    come down that street.  We came down -- must have been -- I  
13    don't know if it's the subsequent street, on Bartlett or  
14    some --

15    Q.   You're saying that a person that does traffic for a living,  
16    is from El Paso, and has to write a report, didn't know what  
17    street you came down, correct?

18    A.   I'm telling you that based on my recollection it was not  
19    Resler.

20    Q.   Well, whatever street, you took a right on Mesa --

21    A.   Yes.

22    Q.   -- toward the freeway?

23    A.   Towards the bank.

24    Q.   Right.

25    A.   Yes.

1 Q. Because there's a bank near the corner of the freeway?

2 A. Yes, a Chase Bank.

3 Q. And that's where you were stopped?

4 A. No. I was stopped before that, three blocks or four blocks  
5 before that.

6 Q. But you told him that you were going to fly, right?

7 A. Yes. Uh-huh.

8 (Call played.)

9 BY MS. KANOF:

10 Q. Okay. I will go for you or whatever. But to do it, no.

11 And Pimentel says to you, Okay, my friend. I will  
12 call you later.

13 Correct?

14 A. Let me just read real quick.

15 Yes.

16 (Call played.)

17 BY MS. KANOF:

18 Q. And then -- so you knew he was driving by this time, right?

19 A. Yes. Uh-huh.

20 Q. And then Government's Exhibit Number 37 -- okay.

21 First of all, before I click on it, let me just get  
22 the transcript up.

23 Okay. Government's Exhibit Number 37 happened a  
24 couple of hours before Government's Exhibit Number 38, correct?

25 A. Yes.

1 Q. Okay. And in Government's Exhibit Number 38 -- I'm going  
2 to try to just go straight to the part.

3 In Government's Exhibit 38 -- so by this time you know  
4 he's driving. But two hours earlier, did you know he was  
5 driving?

6 A. Two hours early --

7 Q. Before the --

8 A. Being the previous -- the transcript that we just saw?

9 Q. Uh-huh.

10 A. In the transcript that we just saw, I knew he was driving.  
11 He tells me.

12 Q. Okay. So at 2:26, I think it was, you're talking to him a  
13 little earlier that day.

14 And I'm trying to find that.

15 Okay. And in this conversation you say you're going  
16 to drive with him, right?

17 A. In which one, ma'am?

18 (Call played.)

19 BY MS. KANOF:

20 Q. Okay. You say you're concerned about him falling asleep,  
21 correct?

22 A. Yes, ma'am.

23 Q. And he says, Oh, but if you help me to drive down there, it  
24 won't be a problem, correct?

25 A. Correct.

1 Q. And so you didn't want to help your friend drive? You  
2 decided to let him drive and you would fly?

3 A. What happened is that --

4 (Call played.)

5 BY MS. KANOF:

6 Q. You agree, No, no. I'm fresh. I'm fresh, right? Correct?

7 A. I'm not -- I didn't follow the question.

8 Q. Did you say, No, I'm fresh?

9 A. I do say --

10 Q. Well, this sounds --

11 A. -- I'm fresh, yes.

12 Q. I'm sorry for interrupting.

13 This sounds like it's an agreement for you to drive  
14 with him.

15 A. Yes. When he was driving into town, we had contemplated  
16 when he got there, and I realized he had the funds, and he had  
17 to take care of them. He couldn't leave town without that. We  
18 still had the mediation. I headed to -- I needed to head down  
19 to Mexico.

20 Q. Well, what changes --

21 A. But that was the following day, on the 7th.

22 Q. Well, you talk about him being tired and you know he has to  
23 drive all the way to Colima. So...

24 A. I did not know he was going to Colima, ma'am.

25 Q. Well, you tell Chuy that you were going to Colima, in



1 Government's Exhibit Number 58A, don't you?

2 A. I'm sure that's when I was already being coached.

3 Q. Oh. When you say, We have to go to the meeting in Colima,  
4 Alex Ascencio told you to say Colima?

5 A. If you show me the exhibit, I can refresh my recollection.  
6 But I --

7 Q. Then you say --

8 A. I already said that I had not met Alex Ascencio during this  
9 time.

10 MS. KANOF: Your Honor --

11 THE COURT: That's enough. That's enough.

12 BY MS. KANOF:

13 Q. Then you said, The only thing I can tell you is that --  
14 remember that -- I think the volume will triple. I think that  
15 if now there are about 20 sheets --

16 (Taped played.)

17 BY MS. KANOF:

18 Q. The volume of what was going to triple?

19 A. The purchase orders.

20 Q. Oh. The only thing he's discussed in here is money. This  
21 will be a big enough box to put the money in.

22 But you're telling the jury that what's going to  
23 triple is the purchase orders?

24 A. No. That was a different conversation, wasn't it? This is  
25 a different phone call. It's not the same phone call, correct?

1 Q. Sir, what purchase orders were going to triple?

2 A. The contract that we were looking at. I don't remember the  
3 specifics of it.

4 Q. What contract were you looking at?

5 A. Well, we were doing some work for insulators, electric  
6 insulators for towers. And those are -- you know each contract  
7 is a -- each one has a purchase order, and they're the *hojas*.  
8 Those are the sheets.

9 Q. Well, okay.

10 A. But I --

11 Q. Maybe this is the time to talk about your insulators.

12 Oh, you know what? I actually want to talk about the  
13 DPS and Chilo first.

14 You told Mr. Velarde twice that you went to Pebble  
15 Hills on the night of September 7 to meet with Chilo and Pedro,  
16 correct?

17 A. Amongst others, yes.

18 Q. I'm sorry?

19 A. Amongst others, yes.

20 Q. Okay. But specifically, you told this courtroom that you  
21 went to Pebble Hills, correct?

22 A. Yeah. Around that area, you know, where the DPS office is.

23 Q. Oh, no. You didn't say around that area, did you? You  
24 said Pebble Hills repeatedly.

25 A. Yes. That's the area I associate it with.

1 Q. Okay. And you met with Chilo and Pedro, and you convinced  
2 them to cooperate. That's why they were set free, correct?

3 A. No.

4 Q. Well, that's what you testified to in direct, isn't it?

5 A. No. I testified that I was a part of a double blind, as  
6 described by Agent Fry. They had me approach them kind of  
7 trying to convince them, just like I had done with Victor  
8 before.

9 Q. Trying to convince them to cooperate?

10 A. Yes.

11 Q. Oh. Now you're saying --

12 A. Just like I had done with Victor.

13 Q. -- you convinced Victor to cooperate also?

14 A. They asked me --

15 Q. No.

16 A. -- to approach them --

17 Q. I asked you a question.

18 Are you now saying you convinced Victor to cooperate?

19 A. He was already cooperating. I was --

20 MS. KANOF: Your Honor, it's a yes or no.

21 THE COURT: Just answer the question, yes, no.

22 THE WITNESS: No.

23 BY MS. KANOF:

24 Q. Okay. Well, you just said, just like -- that you went down  
25 there and you played a script to get them to cooperate just

1 like you did Victor.

2 A. Yes.

3 Q. Okay.

4 A. I also approached Victor that way.

5 Q. And you approached Victor to get him to cooperate?

6 A. Yes.

7 Q. On September 4th of 2007, about 20 minutes out of Atlanta,  
8 Victor cooperated with the federal Government.

9 A. I wasn't aware of that, ma'am.

10 Q. And -- and he was already in the ICE office when you were  
11 taken after the controlled delivery, correct?

12 A. No. Actually, he came with me.

13 Q. All right. So now you're saying that you didn't know that  
14 he was already cooperating?

15 A. Correct.

16 Q. Okay. And when, exactly, was it that you convinced Victor  
17 to cooperate with the Government?

18 A. I was asked by the agents to approach him there at the  
19 office --

20 Q. What office?

21 A. In his -- the ICE office on Executive.

22 And just like Agent Fry testified, they were testing  
23 me. So they said, approach Victor to see if you can convince  
24 him. And he defined it as double blind.

25 Q. Yes. But he didn't say he did a double blind with you and

1 Victor, did he?

2 A. Yes, he did.

3 Q. He did not say that?

4 A. He did. Check the transcript. Ask him. He's sitting  
5 right there.

6 THE COURT: That's enough.

7 BY MS. KANOF:

8 Q. You -- so -- okay. So you convicted Victor to cooperate,  
9 correct?

10 A. No, ma'am. I just did the double blind pursuant to  
11 instructions from ICE agents, and I did it also with Chilo and  
12 Pedro.

13 Q. Okay. And you did that with Chilo and Pedro --

14 A. Yes.

15 Q. -- the night of September 7, correct?

16 A. Correct.

17 Q. And on the night of September 7, you went to Pebble Hills?

18 A. Yes.

19 MS. KANOF: May I approach the witness, Your Honor?

20 THE COURT: You may.

21 MS. KANOF: I'd ask the Court to take judicial notice  
22 of the El Paso phone book.

23 BY MS. KANOF:

24 Q. Let me show you, sir, the address on Pebble Hills.

25 It's not the Department of Public Safety, is it? It's

1 the El Paso police office.

2 A. Yes.

3 Q. The Department of Public Safety is on a different street,  
4 correct?

5 A. Is it on the east side?

6 Q. Well, I don't know.

7 A. Is it close by -- is it close to Pebble Hills?

8 Q. And in fact, a document was prepared at that time for you  
9 to use in your organization to show them that the money had  
10 been seized, correct?

11 A. No. Or not that I'm aware of.

12 Q. Government's Exhibit 56.

13 Government's Exhibit 56 -- okay, it won't get big.

14 Will you agree with me it says September 8 of 2007?

15 A. I do. I will.

16 Q. Now, the agents wanted you and -- I don't want to do a  
17 compound question.

18 The agents wanted you to act like you could get them  
19 out of jail, right, Chilo and Pedro?

20 A. Yes.

21 Q. Okay. And to do that, you talked repeatedly in the  
22 conversations about needing to get the paper to show there was  
23 a seizure, correct?

24 A. Yes.

25 Q. Okay. And Government's Exhibit Number 56 is called

1 Certificate of Seizure, right?

2 A. Yes.

3 Q. And it says \$999,860 was seized, correct?

4 A. Correct.

5 Q. And it says that it was located at 11612 Scott Simpson  
6 Road, correct?

7 A. Yes, ma'am.

8 Q. Okay. And that's the Department of Public Safety, not the  
9 police department on Pebble Hills, correct?

10 A. Correct.

11 Q. Okay. That's -- and then it shows that -- is DPS filing  
12 forfeiture, correct?

13 A. Yes.

14 Q. And they're filing a federal forfeiture?

15 A. Yes.

16 Q. And this document was generated to show that DPS was taking  
17 custody of the money, correct?

18 A. Yes.

19 Q. Okay. Because in a drug trafficking organization, if you  
20 don't prove the Government actually has the money, people get  
21 killed, correct?

22 A. Yes.

23 Q. Now, you testified that the source of the money you learned  
24 was an inheritance; is that correct?

25 A. Yes, that's correct.

1 Q. Okay. And the seizure in Chicago. You said specifically  
2 that the source of the seizure in Chicago --

3 A. I'm sorry, ma'am. I'm not familiarized with the seizure in  
4 Chicago.

5 Q. Okay. The -- first of all, there was testimony that Victor  
6 was going to go get \$100,000, right?

7 A. From Victor, yes.

8 Q. Victor was going to go get \$100,000, right?

9 A. Uh-huh. He testified to that.

10 Q. Okay. And you also testified, right after you talked about  
11 Pebble Hills, that -- Mr. Velarde asked you, What were the  
12 funds from?

13 And you said they were from -- that the funds belonged  
14 to friends, from a builder in Mexico who wanted to engage in  
15 some work in the United States.

16 That's what you told Mr. Velarde, correct?

17 A. Correct.

18 Q. Okay. Well, first of all, what's wrong with builders'  
19 funds? It's legitimate money, isn't it?

20 A. Excuse me?

21 Q. Builders' funds are legitimate money, aren't they?

22 A. I don't understand the question.

23 Q. Well, I just don't understand why you had to go undercover  
24 with ICE if this money was -- belonged to builders from Mexico.

25 A. Which transaction are we talking about, ma'am? I'm sorry,



1 I don't follow.

2 Q. Chicago. July 2008. In response -- in fact, Mr. Velarde  
3 started the questioning, July 2000- -- July 22nd to 23rd, 2008.

4 And he asked you the source of the funds, and you said  
5 friends -- they were -- they belonged to friends from a builder  
6 in Mexico who wanted to engage in some work in the  
7 United States.

8 And now you've agreed, right?

9 A. Yes.

10 Q. Okay. And so my question is: What's illegal about that?

11 A. I never said there was anything illegal.

12 Q. Okay. Well --

13 A. The Government is alleging that.

14 Q. Well --

15 A. I agree with you.

16 Q. Then why is ICE having you record conversations with Victor  
17 for legitimate money?

18 MR. VELARDE: Your Honor, I have to object. This is a  
19 misstatement of the evidence.

20 The questions that are being posed relate to events  
21 that happened in September 2007. The conversations that were  
22 recorded by Mr. Delgado and these individuals happened in  
23 September of 2007. The incident regarding the funds in Chicago  
24 occurred 10 months later. They're not related.

25 MS. KANOF: Well, the --

1 THE COURT: What is not related? There was testimony.

2 MR. VELARDE: Counsel is misstating facts.

3 THE COURT: There was testimony that he had  
4 conversations with his people. Were they recorded?

5 MS. KANOF: They were recorded by Victor, yeah.

6 MR. VELARDE: That's correct. But that happened in  
7 September 2007. The question that's being posed relates to  
8 what happened in July 2008.

9 THE COURT: Right.

10 MS. KANOF: Right.

11 THE WITNESS: So what's the question again? I'm  
12 sorry.

13 BY MS. KANOF:

14 Q. I'm going to show you some pictures. I think that will  
15 help.

16 A. Okay.

17 Q. Government's Exhibit Number 47. That's the cash that was  
18 in the duffel bags that were in the back of the rented vehicle  
19 when DPS stopped you, correct?

20 A. I -- I never saw the -- the contents of the bags, ma'am.

21 Q. Well, I know you think that all the law enforcement were  
22 not being truthful. But --

23 MR. VELARDE: Your Honor, I'm going to object to  
24 sidebar.

25 THE COURT: I'll sustain the objection.

1           Just ask the question. And can you put a reference?  
2       What time is this? What occasion is this?

3           MS. KANOF: Oh, I'm sorry, Your Honor.

4       BY MS. KANOF:

5       Q. September 7 of 2007. This is the duffel bag full of money  
6       that Victor had in the back of the Jeep. Okay?

7       A. Okay.

8       Q. Now you see there's five-dollar bills, correct?

9       A. Yes.

10      Q. And they have two rubber bands on each stack?

11      A. I do, uh-huh.

12      Q. Is that a yes?

13      A. Yes.

14      Q. And they're in, like, shrinkwrapped plastic, correct?

15      A. Correct.

16      Q. Okay. So who transports inheritance money like that?

17      A. Apparently Victor and the labor union individuals from  
18      SUTERM.

19      Q. Well, if it's inheritance money from Mexico, why is it in  
20      the United States?

21      A. You know, actually, it's not uncommon for Mexican nationals  
22      to have relatives who have migrated to the United States or to  
23      have investments or to have a business presence.

24      Q. Okay. Why is this money, if it's an inheritance for this  
25      person that you named, why is it going into Mexico?

1 A. You know, probably because they needed to access the funds.

2 Q. Well, there's banks all over the United States, right?

3 A. Yeah, there's banks all over the United States. I would  
4 agree with that comment.

5 Q. And you're now saying that these builders -- well, no. Let  
6 me go back to this.

7 The people -- the person who inherited this million  
8 dollars would rather keep his money shrinkwrapped in 5s, 20s,  
9 and 10s than put it in a bank and earn interest, correct?

10 A. What I'm saying --

11 Q. No, I asked --

12 A. I'm not saying that, no.

13 Q. Okay.

14 A. No.

15 Q. Government's Exhibit Number 74.

16 MS. KANOF: Government's Exhibit Number 74,  
17 Your Honor, for the record, was July 23rd of 2008, in Chicago.  
18 BY MS. KANOF:

19 Q. So you saw how the other money was packaged. And it's your  
20 testimony that this money is from friends from a builder in  
21 Mexico who wanted to engage in some work in the United States,  
22 correct?

23 A. Correct.

24 Q. So friends of builders in Mexico put cash -- shrinkwrapped  
25 cash and put two rubber bands around it just like people do

1 inheritance.

2 Is that what you're telling this jury?

3 A. I have no idea how they do it or not.

4 Q. Okay.

5 A. Victor coordinated the pickup and he probably coordinated  
6 the way he wanted the funds delivered and probably the way it  
7 was packed. I have no knowledge of it.

8 Q. Victor coordinated --

9 A. Yes.

10 MS. KANOF: Your Honor --

11 BY MS. KANOF:

12 Q. Victor coordinated --

13 A. Yes.

14 Q. -- the Chicago pickup?

15 A. Yes.

16 Q. We have a ton of phone calls where you're telling Victor  
17 what to do in Chicago.

18 A. No. He had already been there. He had already made the  
19 calls. I thought he was just going for a meeting, and it is in  
20 those phone conversations where I said I thought it was just a  
21 meeting.

22 Q. You kept telling him to wait for you to get --

23 A. Instructions from ICE.

24 THE COURT: Wait.

25 A. From ICE, yes.

1 THE COURT: That's enough. Wait for the question.

2 BY MS. KANOF:

3 Q. He's asking you what to do. You're not asking him what to  
4 do in all of those calls, correct?

5 A. He's asking for an account number.

6 Q. No. He's also -- you ask him what happened.

7 And he tells you, I just counted the money.

8 And you ask him -- and he asks you, When is the next  
9 one going to be?

10 And you say, I don't know. I'm waiting for a call.

11 So how can he organize this when he doesn't even know  
12 when the money is coming?

13 A. He's the one that coordinated the trip. I didn't even know  
14 what time he was leaving or anything. Period. I thought he  
15 was going to meet and discuss terms of engagement.

16 Q. Terms of engagement. You -- wait. Before, you said you  
17 didn't even know he was going to Chicago, right?

18 A. I knew there was this operation in place, like I informed  
19 Atlanta of it. And he was spearheading it with Lilian  
20 directly.

21 There had been a lot of false starts, so I thought  
22 this was going to be another one of those false starts.

23 Q. False starts to what?

24 A. To being engaged by these builders. There's always the --  
25 yeah, well, tomorrow we'll hire him. We'll send the retainer.

1 We'll cover expenses.

2 Q. Okay. So again, the builder has their money in the  
3 United States, correct?

4 A. The builder wanted us to assist them with collections --

5 MS. KANOF: Yes or no, please, Your Honor.

6 A. Yes.

7 THE COURT: Answer the question.

8 BY MS. KANOF:

9 Q. The builder has the money in the United States --

10 A. Yes.

11 Q. -- that's shrinkwrapped in 20s, correct?

12 A. Well, I don't know how he has it, the funds.

13 Q. And you have to physically take the money to Mexico, right?

14 A. The Chicago money? No.

15 Q. Okay. Now -- all right.

16 So you testified this was -- and you're agreeing --  
17 that it's money from friends from a builder in Mexico who want  
18 to engage in some work in the United States, right?

19 A. Builders in Mexico that wanted to retain my services to  
20 assist them with collection work in the U.S.

21 Q. I'm quoting, sir. I'm sorry.

22 Do you not recall saying it was from friends of a  
23 builder in Mexico who wanted to engage in some work in the  
24 United States?

25 That is what you told this jury, correct?

1 A. If --

2 Q. Yes or no, please.

3 A. I don't recall if I said those in that sequence.

4 Q. Who is the builder?

5 A. The actual individual is based out of Monterrey, or at  
6 least it was represented to me that he was based out of  
7 Monterrey. The company was GEO. I don't remember the name of  
8 the individual that owned it.

9 Q. Well, you got to keep this \$45,000, and you don't even  
10 remember who the builder was?

11 A. Correct.

12 Q. And what were they going to build in the United States?

13 A. They were already building in the United States. They  
14 needed me just to do --

15 Q. No. My question --

16 A. -- collections work.

17 MS. KANOF: Your Honor --

18 BY MS. KANOF:

19 Q. What were they building?

20 A. They built homes in the United States.

21 Q. In the United States?

22 A. Yes.

23 Q. Oh, okay. I thought before you said building homes for the  
24 poor in Mexico. Now you're changing it to the United States?

25 A. Low income. And they also have operations in the U.S.



1 It's a big shop.

2 Q. Well, you didn't tell Mr. Velarde that. You said that the  
3 100 houses referred to in the e-mails were for poor people in  
4 Mexico, right?

5 A. Yeah. That's a different transaction altogether.

6 Q. Oh, okay. And they're building it in the United States?

7 A. Yes. They had a presence in the United States and they  
8 needed assistance in collecting --

9 Q. And they're giving this money -- by the way, it was  
10 supposed to be \$100,000, right?

11 A. Yes, it was going to cover the expenses of Atlanta, which  
12 was Victor and mine.

13 MS. KANOF: Your Honor --

14 THE COURT: Just answer the question, please.

15 THE WITNESS: Yes.

16 BY MS. KANOF:

17 Q. Okay. And on the phone conversations, you and Victor are  
18 talking about the second pickup, right?

19 A. Yeah. They would discuss the amount, yes.

20 Q. Okay. So the first pickup is dropped off by somebody in a  
21 Hollister shopping bag on the ground of a mall in Chicago,  
22 Illinois, and then he speeds off, correct?

23 A. That's what was represented to me, and it was coordinated  
24 by Victor. I wasn't present, and those weren't the  
25 discussed --

1 Q. But you were in the courtroom --

2 A. -- instructions.

3 Q. You were in the courtroom when ASAC -- Assistant Special  
4 Agent in Charge McCabe testified that that's what happened,  
5 weren't you?

6 A. Well, he testified that he lost sight or what have you, so  
7 I heard some version of it.

8 Q. Okay.

9 A. I have heard that's the testimony, yes.

10 Q. Okay. But you're disputing that that's what happened?

11 A. I wasn't there, ma'am. I didn't coordinate it. I have no  
12 idea.

13 Q. Well, if this --

14 A. This is --

15 Q. If that happened, that's kind of a strange way for a big  
16 building corporation in Monterrey, Mexico, to handle their  
17 money, isn't it?

18 A. Yes. Unless they're being framed or set up or being part  
19 of a production or entrapment.

20 Q. Okay. So they were being entrapped by somebody?

21 A. Well, obviously, Victor told him how to deliver the funds  
22 and what...

23 Q. Victor told them how to deliver it?

24 A. Yes. He even coordinates the place and the time and  
25 everything. Yes.

1 Q. Then why, if he coordinates the place and the time, then on  
2 the phone calls when he's asking you about the next delivery?

3 Is he just confused? Did he forget what he planned?

4 A. I don't know what he -- his state of mind, ma'am.

5 Q. Okay. And then the funds arrive in El Paso, right?

6 A. Yes.

7 Q. And they arrive -- Victor has the cash when you meet with  
8 him?

9 A. I don't meet with Victor, no.

10 Q. You didn't tell Victor you'd meet him at the Pastry Chef?

11 A. I did not meet with Victor and the cash, no.

12 Q. Oh, okay. Let's take the cash out of it.

13 To talk to Victor about the money, you told him to  
14 meet at the Pastry Chef initially, right?

15 A. I don't recall that.

16 Q. Okay.

17 A. No.

18 Q. And then you thought that there were --

19 A. No. Actually, I told him at the bank. I said, Let's meet  
20 in the bank, when he was going to make that deposit.

21 Q. And then you told him that there were federal agents in the  
22 Pastry Chef, people that looked like federal agents at the  
23 Pastry Chef, so you should switch to the Starbucks?

24 A. No. That's what he testified, but that's incorrect.

25 Q. So you told him that you would meet him at the bank across

1 the street from his dorm?

2 A. In the bank. I don't know -- the Wells Fargo branch that I  
3 go to was not in his dorm.

4 Q. Well, he -- he -- I didn't say it was in his dorm. I said  
5 it was across the street from his dorm.

6 Are you disputing that the deposit was made at the  
7 Wells Fargo Bank across the street from his dormitory in  
8 El Paso?

9 A. No.

10 Q. Okay. So you didn't meet him to make the deposit, did you?

11 A. No.

12 Q. Okay. But you did give him an account number to make the  
13 deposit?

14 A. Yes.

15 Q. Okay. It was your IOLTA account?

16 A. Yes.

17 Q. Why are you putting funds from a builder -- or a friend of  
18 a builder who wants to do business in the United States in your  
19 IOLTA account?

20 A. Because that is the purpose of an IOLTA account, to hold  
21 the funds of a client until he or she authorizes the  
22 disbursement.

23 Q. What was the name of your client?

24 A. I already told you. GEO.

25 Q. Okay. And -- oh. So your client was GEO and Victor was

1 picking up the funds?

2 A. Yes.

3 Q. And -- okay. And your client is GEO. But without you  
4 knowing it, Victor arranges the pickup of \$100,000, right?

5 A. Victor and Lilian were coordinating the --

6 Q. Yes or no --

7 A. -- engagement.

8 Q. -- please, Mr. Delgado.

9 A. Yes. He coordinated it, uh-huh.

10 Q. Okay. And you didn't even know about it?

11 A. Yeah. Not the specifics, no.

12 Q. Okay. Well, you testified you didn't know anything about  
13 the fact that he was going to pick up two loads of \$50,000.

14 A. That is correct. I did not know that.

15 Q. So it's your client, you put it in your IOLTA -- oh, can  
16 I -- did you give your attorneys the contract with GEO?

17 MR. VELARDE: Your Honor, again I'm going to object,  
18 because this is assuming facts not in evidence.

19 THE COURT: I'll sustain the objection.

20 Go on. Go on to something else.

21 BY MS. KANOF:

22 Q. So if this was GEO's money, right? This was GEO's money?

23 A. Yes.

24 Q. Okay. And it was put into your IOLTA account, correct?

25 A. Yes.

1 Q. Why did you keep it?

2 A. Because at that point we celebrated an engagement  
3 agreement, and it allowed me to make use of the funds. We  
4 started working for them.

5 Q. You testified that you got to keep the \$45,000 as a result  
6 of working for ICE, didn't you?

7 A. Not as a result of working for ICE. I had told Lilian that  
8 in any project I would be involved I needed a retainer in  
9 advance because I was --

10 MS. KANOF: Your Honor --

11 THE WITNESS: -- taught that.

12 No.

13 THE COURT: That's enough. That's enough.

14 BY MS. KANOF:

15 Q. Now, Government's Exhibit Number 14. This is an e-mail  
16 that was sent to Victor Pimentel -- no, from you -- on  
17 February 7th of 2007, correct?

18 A. Yes.

19 Q. Okay. Now, you talked about the semiconductor thing. And  
20 specifically what you told Mr. Velarde is that you were trying  
21 to negotiate for insulators for conductors to be imported into  
22 the United States because they were currently imported by  
23 different countries, correct?

24 A. No. I never mentioned any importation into the  
25 United States.

1 Q. Oh, I'm sorry, into Mexico. Excuse me.

2 You testified, then, that the labor union had a plant  
3 that had -- that made -- "fabricated" is the word you used --  
4 power towers, correct?

5 A. Yes.

6 Q. And that they required insulating -- insulation for the  
7 conductors, correct?

8 A. Insulators to lay the conductors on.

9 Q. Okay. Insulators to lay the conductors on.

10 A. Yes.

11 Q. What color are those insulators?

12 A. I don't know, ma'am.

13 Q. Does it matter what color they are?

14 A. I don't know.

15 Q. And that they were currently imported from different  
16 countries, right?

17 A. Yes.

18 Q. So you were trying to get distribution rights for somebody  
19 in the United States, right -- or somebody in Mexico. Sorry.

20 A. Yeah. Actually the concession, yes.

21 Q. Look at Government's Exhibit Number 14. And this is  
22 February 7th of 2007, correct?

23 A. Uh-huh.

24 Q. And Liliana -- or Lilian de la Concha tells you, Hello,  
25 Marco. Today I spoke with Pete in relation to the ironworks

1 they want to bring to Mexico.

2 Were the ironworks the conductors?

3 A. No, ma'am. We weren't involved in anything having to do  
4 with the conductors.

5 Q. Well, there's no e-mails talking about conductors.

6 A. Are you asking me or are you telling me?

7 Q. No. I mean there were no e-mails about the conductors?

8 A. Where were -- there were no e-mails.

9 Q. He said for us to be patient, since he had made several  
10 business deals with these contractors and it had taken them  
11 around three months to complete. Correct?

12 A. Yes.

13 Q. Okay. What were these ironworks for, then?

14 A. The ironworks are the insulators so you can lay conductors  
15 on.

16 Q. Oh, okay. So the ironworks are the insulators, and then  
17 you lay -- so ironworks and insulators are the same thing,  
18 then? No, the ironworks are below the insulators. That's what  
19 you're saying. You lay the insulators on the ironworks?

20 A. They refer to it as *herrajes*. It's a piece --

21 Q. So this is about the conductors, then, right?

22 A. What's a conductor? Because this doesn't mention a  
23 conductor at all, so I'm lost.

24 Q. Okay. The ironworks, you're testifying, are what's laid  
25 down first before the insulator, correct?



1 A. What I'm testifying is the following.

2 Ironworks is not even a term that's being used. It's  
3 *herrajes*. And *herrajes* is a component that you use in power  
4 plants.

5 Q. Okay. And she tells you -- he said for us to be patient,  
6 since he had made several business deals with these contractors  
7 and it had taken them around three months to complete.

8 Correct?

9 A. Yes.

10 Q. Who were the contractors that you made -- well, first of  
11 all who is "he," Pete?

12 A. I -- I don't -- I mean, there's an e-mail. You tell me.

13 Q. Pete is Pedro, right?

14 A. Yes.

15 Q. Okay. Pete is the same guy that you talked out of jail in  
16 El Paso, right?

17 A. The CPA, yes, for Nareo.

18 Q. And so he said that you should be patient. And that when  
19 they say no, it's no. But when they say yes, even though it  
20 takes time, they do it, correct?

21 A. That's what it says.

22 Q. What happens is that he has to study various key points  
23 because the things for that industry are difficult, correct?

24 A. Yes.

25 Q. They owe him a large sum, and the director told him that as

1 soon as they brought the ironworks they would pay him, correct?

2 A. Yes.

3 Q. Okay. Well, first of all, it says Pete in relation --

4 A. Yes.

5 Q. -- to the ironworks they want to bring to Mexico. He said  
6 for us to be patient. So Pete is the one that is purchasing  
7 the ironworks?

8 A. Is that a question?

9 Q. I'm asking you. Was Pedro the one that was purchasing the  
10 ironworks?

11 A. He wanted to get the distribution. Actually, his people in  
12 the union, his client, Nareo Vargas.

13 Q. There we are with Mr. Vargas again.

14 But it's -- but right here it says -- who is the  
15 director, then?

16 A. Probably the CFE general director.

17 Q. Okay. Now the CFE general director, then, owes who a large  
18 sum of money?

19 A. Probably the union. The one who is going to be supplying  
20 it to them.

21 Q. Okay. And told him that as soon as they brought the  
22 ironworks they would pay him, correct?

23 A. That's what it says. Uh-huh.

24 Q. Okay. So who's bringing the ironworks?

25 A. I don't know who was going to be bringing them. I wasn't

1 involved in the transportation. My role was just paperwork so  
2 they could get the distribution.

3 Q. Okay. So --

4 A. Maybe the contracts and the purchase orders.

5 Q. Okay. So let's not despair, Marco.

6 Why would you despair?

7 A. Excuse me?

8 Q. She signs it off, So let's not despair, Marco.

9 Why would you despair, Mr. Delgado?

10 A. The truth of the matter is that when you're dealing with a  
11 bureaucratic agency like the CFE, time is of the essence. And  
12 if the window of opportunity closes it might be years, a new  
13 administration, before it opens.

14 Q. Okay. So now we have you facilitating the importation with  
15 Pedro, the accountant, of ironworks that are supposed to hold  
16 the insulation, correct?

17 A. No.

18 Q. No?

19 A. I already told you. My participation was helping them  
20 secure distribution rights and put in place the contracts and  
21 the purchase orders that they would be using.

22 I don't know how they were going to transport them. I  
23 don't know anything about the rest.

24 Q. Okay. Government's Exhibit Number 17, an e-mail from  
25 Liliana [sic] to you that you -- by the way what -- you're

1 sending all these to Victor, right?

2 A. No, to his boss.

3 Q. I'm sorry?

4 A. To his boss.

5 Q. Okay. It says from Delgado to Victor at Hotmail.

6 You're sending Lilian's e-mails to Victor, correct?

7 A. No, to his boss.

8 Q. It says, Hello, Marco. I'm resending you a mail from Paco,  
9 correct?

10 A. It says that.

11 Q. That supports the telephone conversation you and I had,  
12 correct?

13 A. Correct.

14 Q. At the same time I'm sending a copy of this to Paco so that  
15 the dream team is clear on everybody's position, right?

16 A. Correct.

17 Q. Like you told me, the thing is to start. And once the  
18 contractor sees the quality of the ironworks and material we're  
19 handling, you can be sure that they will stay with us.  
20 Correct?

21 A. Yes. In that area in particular.

22 Q. It's yes or no.

23 A. Yes.

24 Q. I thought you said you were facilitating a distribution of  
25 this.

1 A. Yeah. That's what it says.

2 Q. You agree to provide the service to each of the three  
3 groups: Ironworkers, carpenters, and construction workers.  
4 Right?

5 A. Yes.

6 Q. Okay. So there's -- you're testifying to this Grand Jury  
7 [sic] that this whole -- that your role in this is to help  
8 them, as a lawyer, get this -- to help Pedro get this  
9 distribution of insulators, right?

10 A. Yes.

11 Q. Okay. And then you somehow, for some reason, you have to  
12 know about the ironworks, right?

13 A. I don't understand the question.

14 Q. This e-mail to you is about the quality of ironworks,  
15 right?

16 A. No. They're just updating me. And they do mention that  
17 the quality will make a difference in its placement.

18 Q. Okay. But you don't have anything to do with placement of  
19 ironworks, do you?

20 A. When you contract, you have to have --

21 MS. KANOF: Your Honor --

22 THE COURT: Answer the question.

23 BY MS. KANOF:

24 Q. You agreed to provide the service to each of three groups.  
25 What service are you providing to the ironworkers?

1 A. What do you mean? I don't understand.

2 Q. The e-mail says you agree to provide the service to each of  
3 these three groups.

4 You remember that Victor said these are the three  
5 different cells of the cartel. And I know you disagree with  
6 that, correct?

7 A. Correct.

8 Q. Okay. But what service did you agree to provide to the  
9 ironworkers?

10 A. The actual *herrajes*, the insulators. It's saying they're  
11 going to be receiving it. The various sections that are going  
12 to be in charge of building, of putting the structure in  
13 place --

14 Q. Sir --

15 A. -- and actually the setting of it.

16 MS. KANOF: Excuse me. Your Honor --

17 THE COURT: All right. That's enough.

18 BY MS. KANOF:

19 Q. You agree to provide the service to the carpenters.

20 What service are you, as an attorney who is trying to  
21 get a distribution of insulators, providing to carpenters?

22 A. They are referring to a service that's going to be provided  
23 by the people that end up owning that concession, or those  
24 distribution rights.

25 And your translation doesn't reflect that. But if you

1 read it, that's what it says.

2 Q. What service were you going to provide to the construction  
3 workers?

4 A. The service of helping them secure this distribution of the  
5 insulators.

6 Q. Okay. So when you testified before, you said that the  
7 reason Colima was significant was because they were building a  
8 power plant there, right?

9 A. Probably the largest power plant in Mexico.

10 Q. Yes or no, please, Mr. Delgado.

11 A. Yes.

12 Q. And these insulators were -- and ironworks -- were supposed  
13 to go to build that power plant, correct?

14 A. That, I don't know.

15 Q. Oh. Because the next line says that you do not have any  
16 problems with handling the materials and -- within the Republic  
17 of Mexico and making color adjustments, correct?

18 A. Is that a question or does it say that?

19 Q. And making color adjustments.

20 A. Yes. Uh-huh, it says that.

21 Q. So you already testified you don't need to make color --  
22 that the color doesn't matter on ironworks, right?

23 A. No, I didn't say that. You asked me if I knew what color  
24 they were.

25 Q. You said that color doesn't matter on insulators, right?

1 A. It's a different intention, yeah. The ceramic has  
2 different degrees of capacity, yeah.

3 Q. Well, when I asked you what difference does the color make  
4 of an insulator, you said, I don't know.

5 But now you're changing your testimony, right?

6 A. I don't know which one is which. I don't. So the first  
7 time it's correct. I don't know how it works.

8 Q. And in the next paragraph she says, Well, like I told you,  
9 because we had the prices a little higher, they had to purchase  
10 the materials elsewhere.

11 You had the prices higher? When were you the owner of  
12 these things to be able to price them?

13 A. You don't have to own anything to price anything.

14 Q. And you understand what Victor said that meant, right, that  
15 your percentage was too high?

16 A. I understand what he said, yeah. It's incorrect, though.

17 Q. Okay. So you're -- okay. So you're trying to help Pedro  
18 get the distribution.

19 But here, it looks like there's another source that's  
20 cheaper, right?

21 A. Apparently, yes.

22 Q. No, I'm not asking you apparently. It says "we."

23 A. Let me see. Where exactly?

24 Q. In the one, two -- third paragraph from the bottom starting  
25 with, "Do you agree."



1 A. Okay.

2 Q. You agree to adjust the price again, right? So you're  
3 going to lower your price.

4 A. No. She said -- there's a question there. The price can  
5 be adjusted.

6 Q. Okay. It says, in the event that the contract is not  
7 convenient for you to adjust the prices again, right?

8 A. Let me just read it, ma'am.

9 No. It's saying that if it's necessary you can  
10 explore price adjustments in the future.

11 Q. Okay. That implies you're the owner, right?

12 A. No, it doesn't. I'm counsel for these individuals.

13 Q. Oh, yeah. You're counsel for these individuals.

14 Who were you counsel for? I mean, this is not GEO  
15 anymore. GEO is the people building the hundred houses for the  
16 poor in Mexico and the houses in the United States.

17 So who exactly are you counsel for now with regard to  
18 the ironworks?

19 A. The group.

20 Q. What group is that?

21 A. That includes Nareo Vargas, and they want to buy the  
22 distribution rights in Mexico.

23 Q. I thought you said Pedro wanted them.

24 A. Pedro, the CPA, works for Nareo Vargas. He's his adviser.

25 Q. By the way, Mr. Vargas is never mentioned in these,

1 correct?

2 A. Incorrect. He is.

3 Q. In the e-mails?

4 A. Yeah. Uh-huh.

5 Q. Could you give me the number of the Government's Exhibit  
6 that he's mentioned in?

7 A. I don't know if in your exhibits. I don't know if your  
8 exhibits. But in the e-mails he is, and the ones that you  
9 provided as discovery.

10 Q. Government's Exhibit Number 16, an e-mail between you and  
11 Victor.

12 Starting at the bottom he calls you "my dear  
13 attorney," and says that he believes that the only way he can  
14 continue to delay the construction is if you cover the cost of  
15 the construction workers that I have idle.

16 A. Okay.

17 Q. Okay. That I have idle.

18 So now, Victor has a team of construction workers,  
19 right?

20 A. Actually, his boss does. Victor is just a mouthpiece.

21 Q. You're telling me that Mr. Vargas couldn't afford to pay  
22 the construction workers?

23 A. I'm telling you that any shrewd businessman tries to  
24 minimize expenditures. And if it's an idle situation, you  
25 don't want to be incurring those expenses. You want your

1 workers to be active.

2 Q. Okay. In one of the exhibits there's a reference to the  
3 ironworks weighing 50 kilograms.

4 Do you remember that --

5 A. I do not.

6 Q. -- from Liliana [sic] de la Concha?

7 A. I do not.

8 Q. Okay. Government's Exhibit Number 9.

9 On October 13th of 2006 Victor sends you an e-mail  
10 about the leader of a Guadalajara drug cartel being captured in  
11 Colombia, correct?

12 A. Correct.

13 Q. And you respond, The plaza is hot/under surveillance.

14 What was that about?

15 A. No. That's part of the problem. Your translations are  
16 shady. You know, you want to give it that text.

17 *Sitiada*, it just means, you know, that it's  
18 overcrowded, that it's chaotic.

19 Q. Okay. But it does say "plaza," right?

20 A. Yeah.

21 Q. Okay. Well, why are you concerned about -- you know that  
22 plaza is a word that drug -- that drug trafficking  
23 organizations use for the areas that they control, right?

24 A. I do not know that. Well, now I do.

25 Q. Government's Exhibit Number 19. Again, this is

1 February 26th, 2007, an e-mail from you to Victor, where you're  
2 forwarding an e-mail from Lilian, correct?

3 A. Correct.

4 Q. Very late last night Paco called me to tell me that Pete  
5 had just called him to tell him that the contractors had called  
6 him and they wanted to eat with Paco. Right?

7 A. That's what it says, yes.

8 Q. Okay. With the owners -- if you wanted to eat with them  
9 and the owners of the construction company, right?

10 A. That's correct.

11 Q. In order to meet each other, right?

12 A. And define terms, yes. Uh-huh.

13 Q. Okay. So --

14 A. Yes.

15 Q. -- she's asking you, do you want to eat with them to meet  
16 the construction company, right?

17 A. Correct.

18 Q. Okay. And now apparently, finally, 50 kilograms of  
19 ironworks, like I mentioned on Wednesday.

20 So you're going to tell this jury -- are you going to  
21 tell this jury that you discuss ironworks by their weight?

22 A. Actually, the purchase orders come weight-based, yes.

23 Q. Okay. 50 kilograms isn't very much, is it?

24 A. I don't -- I don't know.

25 Q. Well, you live in the United States. 2.2 kilos to a pound,

1 so we're talking about 25 pounds of ironworks, right?

2 A. No, ma'am. You're talking about a hundred. You got your  
3 math --

4 Q. Oh. It goes the other way around? Okay.

5 A. Yes.

6 Q. You do know. So you do know, right?

7 A. Yes, I do know how to convert pounds to kilos.

8 Q. Well, the first time I asked you said you didn't.

9 Okay. So a hundred pounds of ironworks is not very  
10 much, right?

11 A. No. I think -- I actually think that's the unit that you  
12 order, the purchase order.

13 Q. And --

14 A. You can -- if I recall correctly, it's three units, you  
15 know, standard units.

16 Q. Okay. This is February of 2007, right?

17 A. Yes.

18 Q. Okay. And so she tells you, like she mentioned on  
19 Wednesday, that there'll be 50 kilos another day that week,  
20 correct?

21 A. Yes.

22 Q. And from then on 10 kilos -- how many pounds is 10 kilos?  
23 20 pounds?

24 A. It's actually 25. But, yeah.

25 Q. Well, first of all, I thought you said they came in 50-kilo

1 lots.

2 A. No. I said there are three different units that they're  
3 transported in and they come in. And I just said that --

4 Q. And from then on -- I'm sorry.

5 And from then on 10 every week until the end of this  
6 year, correct?

7 A. That's what it says, yes.

8 Q. Okay. So you're talking about kilos, right?

9 A. You're actually talking about --

10 Q. Right or not?

11 A. -- a purchase order of --

12 MS. KANOF: Your Honor --

13 THE WITNESS: -- those units.

14 THE COURT: I'll let him answer.

15 BY MS. KANOF:

16 Q. Okay. It says 50 kilos, though, right?

17 A. Yes.

18 Q. And then it says 50 another day, right?

19 A. Yes.

20 Q. And then it says 10 every week until the end of the year,  
21 right?

22 A. Yes.

23 Q. It's February, right?

24 A. Yes.

25 Q. You're telling this jury that it was going -- that you were

1 only going to get 20 pounds of ironworks every week until the  
2 end of 2007?

3 A. No.

4 Q. I mean -- yes.

5 A. What I'm telling you is that those numbers that you see  
6 reflect the unit. The purchase orders would define what --  
7 that's the availability of what they have, and these are  
8 commodities.

9 Q. She asks you if there's any other news, because this is  
10 going to make a hole in our liver and wallet. Right?

11 A. Yes.

12 Q. That you and she are going to be paying out a lot of money,  
13 doesn't that mean?

14 A. Let me -- if I may?

15 Yes. Uh-huh.

16 Q. Okay. Who are you buying these ironworks from?

17 A. Ma'am, I wasn't buying any ironworks.

18 Q. Okay.

19 A. Like I said, there was a distribution agreement.

20 Q. Okay. Who was distributing the ironworks?

21 A. Vargas's group would be undertaking the distribution and  
22 the supply.

23 Q. Vargas was distributing to himself?

24 A. To the company that he's unionized with. Yes, he was going  
25 to supply them.

1 Q. No -- you -- Vargas -- okay.

2 You're saying that these are -- that Vargas is  
3 distributing to his own company, right?

4 A. It's not his company. To the company he's affiliated with.  
5 They wanted to be supplying, and they wanted to be supplying to  
6 the contractors of that company.

7 Q. But it's going to cost you and Liliana a hole in your  
8 wallet?

9 A. No, it doesn't tell me -- say that it's going to cost me  
10 and her.

11 It says that it's going to cost her and the group.

12 MS. KANOF: Turn to Government's Exhibit Number 38 --  
13 I mean 58.

14 And I think it will be faster if we just do this by  
15 transcript.

16 BY MS. KANOF:

17 Q. On September 15th -- oh, you know what? There was  
18 something I forgot.

19 You testified that you -- on September 7 you went to  
20 Pebble Hills, and that night Chilo and Pedro were released,  
21 correct?

22 A. I did.

23 Q. And that you got them released by talking them into  
24 cooperating, correct?

25 A. That that was the production that was put in place by ICE.



1 Q. Okay. And on September 9th, however, at 1:55 p.m., you  
2 tape a conversation with Chilo, don't you?

3 A. Yes.

4 Q. Okay.

5 (Call played.)

6 BY MS. KANOF:

7 Q. Okay. You got them to cooperate, and two days later you  
8 are taping, on behalf of ICE, Chilo, correct?

9 A. Yes.

10 Q. And you're going to tell this jury --

11 A. All conversations -- all conversations related to this  
12 incident I was asked to tape record.

13 Q. Okay. You were asked to call Chilo?

14 A. I don't know if I called or he called me. I'm pretty  
15 sure -- I don't know. Does it show there? I don't know.

16 Q. Let's see. Let's see.

17 You're the first one who speaks. So that doesn't help  
18 you remember who called who?

19 A. No, ma'am.

20 Q. Well, it doesn't sound like Chilo is cooperating when you  
21 call, does it?

22 A. No, I think it does. Yeah. Uh-huh.

23 Q. You testified that you did not tell Lilian de Concha that  
24 you were dying of cancer, correct?

25 A. Yeah. Dying, no. Correct.

1 Q. Was her e-mail address coel50@gmail.com?

2 A. No. I think it was -- no, I don't -- I don't believe so,  
3 no.

4 Q. Was your e-mail mdelgadoil@aol.com?

5 A. Yes. Uh-huh.

6 Q. And in fact, you stipulated that it was, in that document  
7 we showed the jury earlier in the morning?

8 A. Correct.

9 MS. KANOF: May I approach the witness, Your Honor?

10 THE COURT: You may.

11 BY MS. KANOF:

12 Q. Do you recognize this document as a document that was  
13 provided to you on October 16th of this year?

14 A. Let me just go over it, because I don't recognize it.

15 Yeah -- no. Actually, I don't recognize that.

16 Q. Well, if we had -- whether you recognize it or not, on the  
17 12th of June of 2008, at the bottom of the first page?

18 A. At the bottom of the first -- okay.

19 Q. And I understand it's in Spanish. But you speak Spanish,  
20 right?

21 A. I do, ma'am.

22 Q. Okay. And can you simultaneously translate into English if  
23 I read it in English instead of Spanish?

24 A. Yeah.

25 Q. You tell Lilian, I'm distracted with a couple of things

1 relating to me -- to my -- like I told you, the mother of my  
2 child is dying of leukemia.

3 That's what it says, right?

4 A. Yes.

5 Q. There is no escape, correct?

6 A. There is no escape. It doesn't say there's no escape, no.

7 Q. Okay. The second e-mail on Friday, the 13th of June of  
8 2008, from Lilian de la Concha to you.

9 A. Yes.

10 Q. The second line where it says *salgo a Houston*.

11 A. Yes.

12 Q. You say you're leaving to Houston before noon, correct?

13 A. Yes, ma'am.

14 Q. You told her that, didn't you?

15 A. That's what it says here, yes.

16 Q. Well, you -- you -- you went to Houston, didn't you?

17 A. I don't recall.

18 Q. Okay. And if you count down from that page one, two,  
19 three, four -- the fifth page from that --

20 THE COURT: Is this an exhibit, Ms. Kanof?

21 MS. KANOF: Oh, I haven't marked it. Let me make it  
22 99. Government's Exhibit Number 99.

23 BY MS. KANOF:

24 Q. The e-mail would be on the 12th of October of 2008.

25 A. The 12th of October 2008. Okay. Yeah.

1 Q. You found it? Okay. It says, *Mi Vida, buenos dias* --

2 A. Okay.

3 Q. -- on the bottom of the page?

4 And you tell her -- and she tells you, Be careful.  
5 Remember they did not operate on your tonsils, doesn't she?

6 A. Where does she -- I don't see that.

7 Q. It's the very first line. *Cuidate mucho*.

8 A. Okay. No, I don't...

9 Q. Maybe we're not on the same page.

10 A. Yeah.

11 Q. Well, let me try to admit it and I can put it on the  
12 overhead. You stipulated --

13 A. You said the 11th of October?

14 Q. The date is the 12th of October 2008.

15 You stipulated with your signature, that document I  
16 showed you, that -- the AOL account, mdelgadoli@aol.com was, in  
17 fact, yours, correct?

18 A. Yes, ma'am.

19 Q. And these pages that I've given you purport to be e-mails  
20 that were sent between you and Liliana [sic] using that e-mail  
21 address, correct?

22 A. I mean, it I can see here. But I'm not -- I don't  
23 recognize them as e-mails that were exchanged.

24 Q. Well --

25 A. But it is my address, the Delgado -- mdelgadoli is my

1 address.

2 Q. Well, they -- they look like e-mails, don't they? To,  
3 subject, from, date, just like an e-mail header, right?

4 A. Well, yeah. They look just awfully fishy. I mean, I  
5 don't...

6 Q. They look fishy?

7 A. I don't know.

8 MS. KANOF: Your Honor, we move the admission of these  
9 e-mails. And the fishiness would be the weight, not the  
10 admissibility.

11 THE COURT: Counsel?

12 MR. VELARDE: Your Honor, we respectfully object. The  
13 witness does not recognize those e-mails.

14 THE COURT: Let's get a foundation for them.

15 MS. KANOF: That his e-mail address and the fact that  
16 she basically says who she is. I mean, she's referencing  
17 him --

18 MR. VELARDE: "She" meaning who?

19 MS. KANOF: Lilian de la Concha.

20 BY MS. KANOF:

21 Q. Actually on the first front page, it actually says Lilian  
22 de la Concha, coel50@gmail, 10th of November 2008, the very  
23 first one.

24 A. Yes. But if you go down, the e-mails come from a Hotmail  
25 address, not from that Gmail account. That's why I tell you

1 it's kind of fishy. Maybe we would know the cell tower where  
2 they hit or something to determine that.

3 Q. Well, you and she were lovers, right?

4 A. Yes.

5 Q. And so this is your e-mail account. You stipulated to it,  
6 right?

7 A. Yes, but it's not hers. The other one, the Hotmail, is not  
8 an account that I recognize for her.

9 Q. Okay.

10 A. The one on top, yes. The one, the Gmail, you're correct.  
11 But --

12 Q. Well, the one on top is what -- how she transmitted the  
13 rest of them, correct?

14 A. To be honest with you, I don't recognize the e-mails, and  
15 that e-mail address that's supposed to be hers is incorrect.  
16 At least it's not one that I knew, so I do think it's --  
17 yeah -- a fabrication. No.

18 THE COURT: Where were these obtained, Ms. Kanof?

19 MS. KANOF: They were given to us from Lilian de la  
20 Concha through an intermediary.

21 THE COURT: I'm going to go ahead and admit  
22 Government's Exhibit 99.

23 BY MS. KANOF:

24 Q. We were on the e-mail that was -- by the way, the  
25 Calgary.El Paso.Mexico DF, that's exactly how you sign off on

1 your AOL account, correct?

2 A. Yes, that's how I sign off.

3 Q. And that's your address and everything else, correct?

4 A. Yes. Uh-huh.

5 MR. VELARDE: Your Honor, with respect to the markings  
6 that appear on this exhibit, we have to object to that because  
7 that does not relate to --

8 MS. KANOF: I can use a clean one now, Judge, since I  
9 can use the Elmo now.

10 BY MS. KANOF:

11 Q. Can I get it back from you, please?

12 A. Uh-huh.

13 THE COURT: There's another one up there.

14 BY MS. KANOF:

15 Q. The very first one we talked about was on the 12th of June  
16 of 2008. And that's the one where you say that your ex-wife is  
17 dying of leukemia, right?

18 A. Can I see the e-mail, ma'am?

19 Q. Well, it's up on your screen.

20 A. No. Like I said, that's not an account. That's a  
21 fabrication. That's not an exchange that I had with Ms. de la  
22 Concha.

23 I know for a fact that's not her e-mail account.

24 Q. And on the 12th of October 2008, that's when she tells you,  
25 Be very careful because you didn't have a tonsillectomy, right?

1 A. Who is "she"?

2 Q. Lilian de la Concha.

3 A. No, they're not coming from her. I already told you.

4 Q. Somebody told you that, right?

5 A. Or somebody fabricated these documents.

6 Q. And on October 12th, 2008, at 6:01 -- well, you're  
7 responding, though. Aren't you responding to these?

8 A. No. Just because you have a document that has my name  
9 doesn't mean that I generated it. That's why I was asking you.  
10 Give us access, so we can see the electronic file, like we did  
11 in case -- when you had doubts about our e-mails. This could  
12 just be another cut and paste job.

13 Q. Another cut and paste job?

14 A. Yes.

15 Q. Like the cut and paste job of --

16 MR. VELARDE: Your Honor, I'm going to object to  
17 Counsel's sidebar remarks.

18 THE COURT: I'll sustain the objection.

19 You're denying that these had anything to do with you?

20 THE WITNESS: I'm denying that these were prepared or  
21 received by me. I don't recognize them.

22 And I'm also stating that the e-mail address that she  
23 purports to belong do Ms. de la Concha I do not recognize.

24 MR. VELARDE: I renew my objection, Your Honor.

25 THE COURT: Overruled.



1 BY MS. KANOF:

2 Q. The exhibit that -- on the pages of the exhibit for the  
3 e-mail in this case, doesn't she say, Surely you are tired,  
4 because getting out of the hospital makes you tired?

5 A. I don't know if she's saying that. That's not -- like I  
6 said, this is not --

7 THE COURT: Wait a minute.

8 BY MS. KANOF:

9 Q. Does the document have written on it words in Spanish that  
10 can be interpreted, Surely you are tired because getting out of  
11 the hospital makes you tired. I believe you've never been  
12 sick, and that makes things more difficult for you to  
13 understand.

14 Am I translating it correctly?

15 A. Yes.

16 Q. Okay. On the next page, on Monday, October 13th, does the  
17 document reflect on the highlighted portion starting with,  
18 *Ahora*. Right now I don't think it would be a good time to  
19 travel because you get very tired, correct?

20 A. That's what is highlighted, yes.

21 Q. And then below in the green, does it say, Anyone who had  
22 been in a hospital all that time and full of medicine and  
23 treatment, et cetera, without sun in a hospital, would look  
24 like a ghost, correct?

25 A. Yes. Uh-huh. Roughly, yes.

1 Q. On the next page, in an e-mail dated Tuesday, the 14th of  
2 October of 2008, does the document reflect, translated from  
3 Spanish to English, Little thing, did you see the mail with the  
4 aloe vera that I sent you?

5 A. I can't see the heading.

6 Q. Is that better? Oh, there you go. Is that better?

7 A. Yes. Uh-huh.

8 Q. Okay. Little thing, did you see the mail with the aloe  
9 vera that I sent you? Yesterday I resent it. Four people that  
10 responded told me, said that their uncle, brother, grandfather,  
11 et cetera, had been cured with the aloe vera, having terminal  
12 cancer.

13 Is that what it says?

14 A. That's what it says.

15 Q. You're a vegetarian, aren't you?

16 A. I am.

17 Q. Okay. And so then the part at the bottom, the document  
18 reflects that from Spanish to English, Since you're a  
19 vegetarian, surely you would like to eat plants.

20 A. Can I see where that part -- I don't see the...

21 Q. That's what it says, right?

22 A. Yes. Uh-huh.

23 Q. And then down at the bottom, on October 15th of 2008, it's  
24 from you. This e-mail -- I mean, this document purports to be  
25 an e-mail from you to someone at hotmail.com on Wednesday, the

1 15th of October of 2008, at 3:00 -- a little after 3:00,  
2 correct?

3 A. Yes.

4 Q. And translated, I cannot even move, but I feel 100 times  
5 better than in the hospital.

6 A. Uh-huh. Yes.

7 Q. Now, I'm showing you a page where the document purports to  
8 be an e-mail written October 19th of 2008, early -- in the  
9 early hours of the morning. And it purports to be from your  
10 e-mail address, correct?

11 A. Yes.

12 Q. Okay. In the highlighted part does it say, They never sent  
13 you what I left for you in Houston; is that correct?

14 A. It says that, yes.

15 Q. Answer me, please, in relation to the aloe vera, correct?

16 A. Yes.

17 Q. Okay. I beg you to do it.

18 A. Yes. Uh-huh.

19 Q. You don't lose anything. Please, let's try.

20 That's what it says, right?

21 A. Yes.

22 Q. On October 28th of 2008, again the document purports to be  
23 an e-mail from you, correct?

24 A. Correct.

25 Q. And the first highlighted portion -- sorry. Let's see.

1 I ended up taking a certain medication that knocked me  
2 out, correct?

3 A. That's what it says.

4 Q. And below that in the next one, again purporting to be from  
5 you on Wednesday, the 28th, of 2008. I was with the doctor  
6 yesterday, and which I hope will be the last treatment,  
7 correct?

8 A. Correct.

9 Q. I'm not going any further with it.

10 But, Mr. Delgado, in October of 2008, Victor Pimentel  
11 testified that he took -- in October of 2008 -- that he told  
12 Lilian de la Concha that you were lying when you said you were  
13 dying of cancer.

14 Do you remember that testimony?

15 A. I do.

16 Q. And he said that she came over and wanted him to show her  
17 where you lived and where your girlfriend lived, correct?  
18 That's what he said?

19 A. No, I don't think he mentioned that -- my girlfriend. No,  
20 she didn't -- he didn't.

21 Q. And in December -- on December 3rd of 2008 you were  
22 contacted by ICE Atlanta to contact ICE El Paso, correct?

23 A. Yes.

24 Q. And ICE El Paso told you that the reason they called you in  
25 is because your life had been threatened, correct?

1 A. Yes.

2 Q. And they found it to be a credible threat, correct?

3 A. Yes.

4 Q. And you said, I think it was Lilitiana [sic] de la Concha,  
5 because I broke up with her, correct?

6 A. No.

7 Q. Oh, you didn't say that?

8 They tell you to be careful, right?

9 A. Yes.

10 Q. Okay. And they don't tell you the source of the threat,  
11 correct?

12 A. No, they do. We get on the phone and called Ms. de la  
13 Concha from the ICE offices.

14 MS. KANOF: Pass the witness, Your Honor.

15 MR. VELARDE: May I have a minute, Your Honor?

16 THE COURT: One minute.

17 Do you have redirect?

18 MR. VELARDE: None, Your Honor.

19 THE COURT: No? Okay. I'm just asking because I'll  
20 give you an opportunity.

21 MR. VELARDE: Your Honor, for purposes of the record,  
22 we have no redirect.

23 THE COURT: Very well.

24 MR. VELARDE: Thank you.

25 THE COURT: You may sit down over there, Mr. Delgado.

1 I think -- we might as well take our lunch break at  
2 this time.

3 MR. VELARDE: Yes, sir.

4 THE COURT: Ladies and gentlemen of the jury, we'll be  
5 in recess until, let's say, 1:20. That will give you an extra  
6 five minutes. 1:20 in the afternoon.

7 And again, I remind you of the instructions that you  
8 are under. We'll be in recess until 1:20 in the afternoon.

9 (Open court; outside the presence of the jury.)

10 THE COURT: You indicated that you have two rebuttal  
11 witnesses.

12 MS. KANOF: No, I think we have only one.

13 THE COURT: Okay. Make sure they're here at 1:20.

14 MS. KANOF: Liliana Narvaez.

15 THE COURT: I'm sorry?

16 MS. KANOF: Liliana Narvaez.

17 THE COURT: Be sure they're here by 1:20.

18 MR. VELARDE: Thank you.

19 THE COURT: We'll be in recess until 1:20.

20 (Recess taken; open court.)

21 MR. VELARDE: Your Honor --

22 MS. KANOF: Oh, they need to rest. This is a rebuttal  
23 witness.

24 MR. VELARDE: Your Honor, right before lunch we had  
25 the last witness and only witness that we're going to present;

1 so, therefore, we rest.

2 THE COURT: You have a rebuttal witness, I understand?

3 MS. KANOF: Your Honor, the Government calls Liliana  
4 Narvaez. She has not been sworn.

5 (Witness duly sworn; answered, "I do.")

6 MS. KANOF: We redacted some stuff by agreement,  
7 Your Honor, from this, so I'm going to use the Elmo instead of  
8 the computer.

9 THE COURT: Okay. You may. You may proceed.

10 MS. KANOF: Thank you, Your Honor.

11 LILIANA NARVAEZ, GOVERNMENT'S WITNESS, SWORN

12 DIRECT EXAMINATION

13 BY MS. KANOF:

14 Q. Can you tell us your name, please?

15 A. Liliana Narvaez.

16 Q. And do you know an individual by the name of Marco Delgado?

17 A. Yes, I do.

18 Q. Is he here in the courtroom?

19 A. Yes, he is.

20 Q. Could you indicate where he is, just by briefly saying  
21 where he's sitting and what he's wearing?

22 A. He's sitting next to Mr. Velarde, and he's wearing a blue  
23 navy suit.

24 MS. KANOF: Let the record reflect this witness has  
25 identified the Defendant.

1 THE COURT: The record will so reflect.

2 BY MS. KANOF:

3 Q. How do you know him?

4 A. I was his girlfriend, or dated him on and off for six  
5 years.

6 Q. Okay. And when did you first meet him?

7 A. December 2nd, 2006.

8 Q. And you said you were -- on and off you were his girlfriend  
9 for six years; is that correct?

10 A. Correct.

11 Q. At some point in time were you actually engaged to be  
12 married?

13 A. Yes, we were.

14 Q. When did that occur?

15 A. A few times.

16 Q. A few times? Okay.

17 And was there a time that he lived with you?

18 A. Yes. On and off we lived together as well.

19 Q. Okay. And you said on and off you lived together. But  
20 sometimes you had a good relationship; is that correct?

21 A. Yes.

22 Q. And during those times did you provide him with your bank  
23 account number?

24 A. Yes.

25 Q. What was the purpose of you providing him with your bank



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1 account number?

2 A. He asked me for my bank account number because we had had  
3 some issues with infidelity on his part, and I didn't trust  
4 him, and I didn't want a relationship with him.

5 So he told me it was a way of him showing me that we  
6 would really have a life together and that we would, you know,  
7 be married, and that it was -- he was showing me, by depositing  
8 this money into my account, that we were -- he was going to buy  
9 me a house and that I could now have the money. Because we had  
10 been house hunting before, never got anything.

11 And he said that with this money I could go ahead and  
12 go and purchase the house and the furniture that I needed for  
13 our life together.

14 Q. So about when do you think you first provided him with your  
15 bank account number?

16 A. It was the summer of 2007.

17 Q. And did sometimes he put money into your account for bills,  
18 other than the big amount that we're going to talk about in a  
19 minute? Did he put money into your account frequently?

20 A. Not before that big transaction.

21 Q. Okay. Let me show you what's been marked and admitted into  
22 evidence as Government's Exhibit 78. And it will pop up on the  
23 screen in front of you. Okay?

24 Do you recognize that as being your bank account?

25 A. Yes.

1 Q. And at the top, does it indicate that this -- or your bank  
2 statement, correct?

3 A. (No verbal response.)

4 Q. Is that yes?

5 A. Yes.

6 Q. She has to take down what you say, so a nod is not --

7 A. Oh, I'm sorry.

8 Q. That's okay. You probably have never testified before.

9 A. Never.

10 Q. And this bank statement appears to be from June 21 through  
11 July 20, 2007, correct?

12 A. Correct.

13 Q. And you just testified that you first gave him your number  
14 in the summer of 2007.

15 So would this be around the time you actually gave him  
16 your number?

17 A. Yes.

18 Q. And if you look at what I've highlighted -- of course it's  
19 not on the one that's in evidence.

20 But if you look at what I've highlighted on July 20th,  
21 did you receive \$4,612.55 from someone you did not know?

22 A. Yes.

23 Q. Did you know Mr. Meneses -- Mendoza-Meneses?

24 A. No.

25 Q. And it appears as though the transfer was from Mexico,

1 *Monex Casa De Bols*; is that correct?

2 A. Yes. That's what it says.

3 Q. Okay. And do you remember seeing this deposit on your  
4 account?

5 A. No, I don't.

6 Q. Okay. So you trusted him?

7 A. Absolutely.

8 Q. And when he traveled, did you help him out financially by  
9 paying his bills?

10 A. After the money was transferred into my account, yes.

11 Q. Okay. Well, we haven't -- not after this money was  
12 transferred?

13 A. No. After the other amount.

14 Q. Okay. Well, let's talk about that money that was  
15 transferred into that account.

16 First of all, Mr. Delgado, what did he do for a  
17 living?

18 A. He's an attorney, energy law attorney.

19 Q. All right. Did he have -- by the time you started seeing  
20 him, was he still with Delgado & Acosta?

21 A. No.

22 Q. So at least by December of 2006 he was no longer with  
23 Delgado Acosta?

24 A. No, he had separated.

25 Q. Okay. And did you ever visit his office on Remcon?

1 A. Yes.

2 Q. Could you describe that office, please?

3 A. It's actually a virtual office, so it's not like an of- --  
4 a regular office setting where you would have a suite or a unit  
5 for each business.

6 This is kind of like an office that takes your  
7 correspondence. It's an office that takes your calls. So they  
8 have ladies in the front reception that have a switchboard.  
9 And depending on the light that turns on, that's the business  
10 that they're calling, so that's what they answer. That's the  
11 name of the business that they answer.

12 Q. So basically, it's a communal place so that -- for many  
13 businesses, correct?

14 A. Correct.

15 Q. And they know who's being called by their switchboard?

16 A. Yes.

17 Q. And they -- and so then they save the calls or receive the  
18 mail for that individual, correct?

19 A. Correct.

20 Q. And -- but have you gone there and physically seen it?

21 A. Yes.

22 Q. Is there a place there where you can sleep?

23 A. I guess if you want to sleep on the floor, yes. I don't  
24 know. But, yeah, there's no...

25 Q. So did Mr. Delgado physically have an office that you

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1 could, like, say, lock the door?

2 A. (No verbal response.)

3 Q. Is that a no? Because she has to --

4 A. Well, it's -- okay. It has different conference rooms.

5 And if he needed to meet with clients, he would call the office  
6 and say, I need a room for four or a room for ten for an hour  
7 or for three hours, and then they would reserve that little  
8 conference room.

9 So technically you could close the door, I guess, yes.

10 Q. But to the conference room.

11 A. To the conference room, but not to the whole office, yes.

12 Q. Okay. So there weren't like individual offices that had  
13 desks for the lawyers or anything like that?

14 A. No.

15 Q. Okay. And when -- when you were involved -- the times that  
16 he was living with you, did he explain to you how he ran his  
17 law office?

18 A. Yes. He mentioned to me that he didn't need an office,  
19 per se, that -- you know, because of the over- -- you know, the  
20 cost of -- yes, the cost of running an office and having  
21 somebody working all the time.

22 Because of his traveling and because of the business  
23 that he was in, it was -- you know, putting energy bits  
24 together for many companies and internationally, you know, he  
25 only needed an office on and off. So that's why he chose that

1 setting.

2 Q. Did he have an office in Calgary, Canada?

3 A. No, he did not.

4 Q. Did he have an office in Mexico City?

5 A. When I was with him, no.

6 Q. And who is Miriam?

7 A. Miriam is his former secretary.

8 Q. Okay. Did she work at the physical location at Remcon?

9 A. No.

10 Q. Where does she work?

11 A. I guess at her house.

12 Q. So what other employees did he have?

13 A. That's it.

14 Q. Did he -- when he needed employees to do things like draft  
15 pleadings or documents or agreements, did he hire them on a  
16 contract basis?

17 A. I have no idea.

18 Q. Okay. Now, the second exhibit that the Government wants to  
19 show you is Government's Exhibit 79.

20 It's the bank account -- it's that same bank account.  
21 Do you remember -- do you recognize your statement?

22 A. Yes.

23 Q. Okay. This one is from -- this is Government's Exhibit  
24 70- -- oh, okay. Sorry. I want to make sure I have the right  
25 one. 79, yeah.

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1           Okay. This particular statement, it appears, was for  
2     the period of August 21 through September 21 of 2007.

3     A.   Correct.

4     Q.   Did Mr. Delgado tell you that he was detained by the  
5     Department of Public Safety on September -- the first week of  
6     September -- I don't remember if it was the 6th or 7th -- that  
7     he was detained and taken down to the Department of Public  
8     Safety on that day?

9     A.   No.

10    Q.   Did he tell you that -- did you know Victor Pimentel?

11    A.   I met him -- or I got to -- I met him once. And of course  
12    I got to see him maybe three times.

13    Q.   Okay. Did he ever tell you that Victor was stopped with a  
14    million dollars in cash in his car?

15    A.   No.

16    Q.   Okay. But -- and that -- again, look at what I've  
17    highlighted, please, from your statement.

18           On September 13th of 2007, there is a deposit for  
19    \$270,000, correct?

20    A.   Yes.

21    Q.   And then the next day a deposit for \$230,000, correct?

22    A.   Yes.

23    Q.   And they appear to be wire transfers, don't they?

24    A.   Yes.

25    Q.   And they appear to be wire transfers from Isaias Cohen,

1 correct?

2 A. Correct.

3 Q. Who is Isaias Cohen?

4 A. I don't know.

5 Q. Did you give Isaias Cohen your bank account number?

6 A. No.

7 Q. Back to Government's Exhibit Number 78.

8 Did you give Pedro Mendoza-Meneses your bank account  
9 number?

10 A. No.

11 Q. Okay. So what did Mr. Delgado tell you about -- did you  
12 notice these deposits on your own, or did he tell you --

13 A. Well, he told me, remember that I could go buy my house  
14 now.

15 Q. Okay. So he -- how did that happen? You got a statement  
16 and noticed it or he came and told you, I put all this money in  
17 your account?

18 A. No. He was out of the country. And like I said, we were  
19 having a lot of issues in our relationship.

20 And he told me, you know, he was trying to reconcile,  
21 and that he wanted to show me that he was serious about our  
22 life together and forming a family. So that instead of --  
23 because whenever he would mention the house, I would say,  
24 You're lying, you know. You haven't bought me a house and  
25 you've been telling me that for a long time.



1           So he would say, Okay. I'm going to show you that  
2       it's true. I'm transferring the money into your account so you  
3       can go and do it yourself.

4           And I said, Okay. Great.

5       Q. So he told you that he had this money put in your account  
6       so that you could find the house you wanted.

7       A. Correct.

8       Q. Is that correct?

9           What happened with that money?

10      A. He spent it.

11      Q. Now, did he tell you where the money came from?

12      A. He told me that the money was from the sale of the apple  
13      orchard of their family in Cuauhtemoc, Mexico.

14      Q. And did he tell you who Isaias Cohen was?

15      A. He told me it was the person in charge, that managed the  
16      operations of the orchard.

17      Q. So he said Isaias Cohen was the manager of the family apple  
18      orchard, correct?

19      A. Correct.

20      Q. Now, you said he spent it. How did that happen? I mean,  
21      you -- did you start looking for a house?

22      A. Oh, yes.

23      Q. Okay. And did you tell him, Come look at this house. I  
24      found a house.

25      A. Oh, we spent, with my aunt, many, many weeks searching for

1 houses, putting contracts on houses.

2 Q. I'm assuming your aunt is a realtor?

3 A. Yeah, she's a realtor. And we would put a lot of bids on  
4 different houses, and -- for a very low amount, so they were  
5 all rejected.

6 Q. Okay. And now the money, does it just stay in your  
7 account?

8 A. No.

9 Q. What happens to it?

10 A. Marco starts asking me to please send all these payments  
11 for him.

12 Q. What kind of payments?

13 A. For example, for his children's tuition, university  
14 tuition. He asked me to -- he bought a Jeep with it. He asked  
15 me to -- for his child support checks.

16 Q. Child support checks to his ex-wife?

17 A. To his ex-wife.

18 Q. And what's her name?

19 A. Sharon Delgado.

20 Q. Okay. And did you do that?

21 A. Yes, I did.

22 Q. And was there money left for a house?

23 A. Well, no. After six months it was dwindled down to  
24 nothing.

25 And I kept on telling him, We're running out of this

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1 money.

2 And he said, Don't worry, you know, I'll put that  
3 money back or I'll finance the rest.

4 And I said, Okay.

5 Q. And that didn't happen?

6 A. No.

7 Q. Do you know who Lilian de la Concha is?

8 A. I know of her, but I don't know her.

9 Q. Okay. You haven't met her personally?

10 A. No.

11 Q. But has she communicated --

12 A. No. No, I'm sorry. I did meet her once in Mexico City  
13 with Marco.

14 Q. Okay. Did you communicate with her by e-mail?

15 A. She -- yes.

16 Q. Okay. I showed you, during the break, Government's Exhibit  
17 Number 99, correct?

18 A. Yes.

19 Q. Okay. And you paged through it, correct?

20 A. Yes.

21 Q. Did you recognize these pages?

22 A. Absolutely.

23 Q. How did you recognize them?

24 A. Because she sent these --

25 Q. Who is "she"?

1 A. Lilian de la Concha.

2 Q. Okay.

3 A. Sent this e-mail and added her little summary before all  
4 this as proof of her having a relationship with Marco.

5 And she sent it to Sharon Delgado and to myself, so  
6 that we would realize -- well, I would realize that he was  
7 cheating on me.

8 Q. Okay. And the -- you actually -- the e-mail address that  
9 it's from, that's the e-mail address that she was using at the  
10 time?

11 A. Yes.

12 Q. Okay. And the -- do you recognize Mr. Delgado's e-mail  
13 addresses?

14 A. Oh, yes.

15 Q. They seem to be from June of 2008 through October of 2008.  
16 Is that the same ones that you received?

17 A. Yes.

18 Q. Did you know Mr. Delgado at that time?

19 A. Yes. I was his fiancée.

20 Q. Was he dying of cancer?

21 A. No.

22 Q. Did he have an operation at a hospital?

23 A. No.

24 Q. Did he have continuous treatments with a doctor?

25 A. No.

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1 Q. Was his ex-wife, Sharon Delgado, dying of leukemia?

2 A. No.

3 MS. KANOF: Pass the witness.

4 MR. ESPER: I have no questions, Your Honor.

5 THE COURT: Very well.

6 You may be accused. You're free to leave.

7 THE WITNESS: Thank you.

8 MS. KANOF: Your Honor, the Government closes.

9 MR. ESPER: The Defendant closes, Your Honor.

10 THE COURT: Ladies and gentlemen of the jury, you have  
11 heard all the evidence.

12 Let me do this. It's almost 2:00 in the afternoon,  
13 ladies and gentlemen. We need to work on the Court's  
14 instructions, and the attorneys have requested, what, 30 to 40  
15 minutes each side to present you their side of arguments. And  
16 by the time you would get it, it probably would be about 5:00,  
17 and it would be time to leave.

18 So instead of keeping you here all that time, I'm  
19 going to go ahead and excuse you. And we can, at our leisure,  
20 work on whatever we need to do.

21 I'm sorry to have to tell you, but you're going to  
22 have to come back on Monday. Okay? I think I kind of warned  
23 you about that yesterday, because I could see we were going to  
24 take longer than I anticipated.

25 So you're going to be free for the weekend, ladies and

1 gentlemen. I do want you to come back at 9:00 on Monday  
2 morning, and we intend to get started with reading you the last  
3 set of instructions and have the attorneys address you in their  
4 final arguments, and then you will be sent to deliberate.

5 Now the fact that you're going to be on your own for  
6 the next two days, it just makes it more important for you to  
7 comply with all the directions that I've given you, with all  
8 the instructions I've given you. We have spent a whole week in  
9 this trial, and we don't want anything to happen where we have  
10 to start all over again.

11 So abide by all the instructions. You're not to  
12 discuss this case with anyone. You're not to listen to any  
13 news or otherwise program or view any program that has to do  
14 anything with this case in any way whatsoever.

15 So with that, ladies and gentlemen, thank you for your  
16 service this whole week, and hopefully we won't have to keep  
17 you here more than Monday.

18 All rise for the jury.

19 (Open court; outside the presence of the jury.)

20 MR. ESPER: Your Honor, since both sides have now  
21 rested and closed with the presentation of evidence, the  
22 Defendant Marco Delgado moves once again, pursuant to Rule  
23 29(a) of the Federal Rules of Criminal Procedure, for a  
24 Judgment of Acquittal as to Count 1, Subparagraphs A, B, and C.

25 And I would renew the same grounds that I had alleged

1 when the Government rested its case-in-chief, coupled with the  
2 fact that the evidence that was presented by the Defendant  
3 establishes that no rational trier of fact could conclude  
4 beyond a reasonable doubt that all elements of the charged  
5 offense have been proven; and, therefore, he's entitled to a  
6 Judgment of Acquittal, Your Honor.

7 THE COURT: Motion for Judgment of Acquittal is  
8 overruled. It will go to the jury.

9 Get your Charge and go over it. I'll come back and  
10 take any objections or requests that you may have. Let's say  
11 10 minutes.

12 We'll be in recess for the next 10 minutes.

13 (Recess taken; open court.)

14 THE COURT: Counsel, you've been provided with the  
15 latest version of the Court's instructions.

16 I had previously requested that you try to make them  
17 as simple as possible because --

18 MR. ESPER: Your Honor, if I could go first, mine  
19 would be much shorter for sure.

20 THE COURT: What's that? I'm sorry.

21 You've got to get by the microphone.

22 MR. ESPER: Okay.

23 THE COURT: You know, I've conveyed to you before, I  
24 don't think this jury is really too sophisticated. Okay? I  
25 think they're going to have problems.

1 MR. ESPER: Your Honor, all the money laundering  
2 instructions are, to me, complex.

3 THE COURT: Yeah.

4 MR. ESPER: I had one objection, Your Honor, and I'll  
5 sit down.

6 THE COURT: Okay.

7 MR. ESPER: The Defendant objects to the deliberate  
8 ignorance instruction. I think that based on -- his testimony  
9 was that this was not deliberate ignorance, that he was not --  
10 he was engaging in lawful activity, and he was not blinding  
11 himself to that which was obvious.

12 I know the Government's theory is that he  
13 deliberate-- -- he engaged in deliberate ignorance.

14 But his testimony revealed that this was not -- from  
15 his standpoint -- a --

16 THE COURT: If you believe his testimony.

17 MR. ESPER: Well, I think that's going to be up to the  
18 jury, obviously. And so I --

19 THE COURT: It's also up to me, whether I -- whether I  
20 submit this. I think this is a prime case of deliberate  
21 ignorance, quite frankly, Mr. Esper.

22 MR. ESPER: Well, I think -- I think -- I wouldn't  
23 quarrel with that, absent the defendant's testimony. His  
24 testimony did not say, I blinded myself. This was an -- he's  
25 saying this was not a -- was not a drug money laundering



1 transaction.

2 I think his testimony was unequivocal that that was  
3 his position.

4 Now absent that testimony, then I think deliberate  
5 ignorance probably would be applicable. But when you factor in  
6 his testimony, at no time did he say he deliberately blinded  
7 himself to anything.

8 THE COURT: Okay. Who's going to say that? No.

9 MR. ESPER: All right.

10 THE COURT: Your objection is overruled. I think this  
11 is a prime case for this type of instruction.

12 MR. ESPER: All right, Your Honor.

13 THE COURT: Government?

14 MS. ARREOLA: No objections, Your Honor.

15 THE COURT: Very well.

16 Now, you had requested 40 minutes, Ms. Kanof?

17 MS. KANOF: Yes, I did, Your Honor. I requested that  
18 before he testified.

19 THE COURT: Before.

20 MS. KANOF: I think, really, the real reason that we  
21 wanted more time is the complexity of the Charge and hooking up  
22 some of the facts to the Charge for the jury, as an example.

23 Otherwise, I guess 30 minutes would be okay. But we  
24 really feel like we need a little bit of extra time.

25 THE COURT: You know, I don't intend to give too much

1 time for final arguments, but we've gone a whole week. I guess  
2 I can live with an extra 10 minutes or so.

3 MR. VELARDE: For both sides?

4 THE COURT: You're all entitled to the same.

5 MR. ESPER: 40 minutes?

6 THE COURT: I'll give you 40 minutes.

7 MS. KANOF: Thank you, Your Honor.

8 MR. ESPER: Thank you, Your Honor. I have to say  
9 that's a first, for us -- for me, anyway, with the Court.  
10 Thank you.

11 THE COURT: Do you know how you're going to divide  
12 that? And how much a warning do you want? You don't have to  
13 tell me now. You can tell me Monday.

14 MS. KANOF: Oh, okay.

15 THE COURT: You can tell me Monday. If you all want a  
16 warning, I'll...

17 MR. VELARDE: Five minutes before, Judge.

18 THE COURT: So you can let me know Monday how you're  
19 going to divide that and how much of a warning you want.

20 MS. KANOF: Your Honor, Ms. Arreola is going to do the  
21 opening portion of closing. She wants a 10-minute warning.

22 THE COURT: 20 minutes with a 10-minute warning?

23 MS. ARREOLA: A five-minute warning.

24 MS. KANOF: And I'll take a three-minute warning,  
25 Your Honor.

1 THE COURT: Three minutes?

2 20 minus 5, and 20 minus 3. Okay.

3 Anything else at this time, Counsel?

4 MR. ESPER: No, Your Honor.

5 MS. KANOF: Nothing further from the Government,  
6 Your Honor.

7 THE COURT: You may be excused, then. We'll be in  
8 recess until Monday morning.

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